



# ***DEL ROSARIO PANDIPHIL Inc.***

## **Philippine Shipping Update – Manning Industry**

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., March 19, 2015 (Issue 2015/08)

*“Del Rosario & Del Rosario is more or less unrivalled when it comes to maritime work in the Philippines” from Asia-Pacific, The Legal 500, 2014, p. 497*

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### **Death Benefits not payable as seafarer died outside the term of employment**

The seafarer had pre-terminated his employment contract and asked for early repatriation for a vacation leave. Such request was granted and seafarer was later on repatriated on 21 May 2005.

Thereafter, the seafarer requested that he be re-employed by the company again and for this purpose, he was told to undergo the required pre-employment medical examination to determine his fitness for work. Unfortunately, the seafarer passed away on 2 July 2005 due to myocardial infarction.

The heirs of the seafarer claimed death benefits on the ground that during the last employment of the seafarer, he was already ill which condition was reported to the Master. It was also alleged that the seafarer informed the company of his medical condition after repatriation but was not minded.

The Court, based on evidence, found that the seafarer pre-terminated his employment contract. Upon the time of seafarer's repatriation, the employer-employee relationship between him and the company had already been terminated. Thus, the terms and conditions contained in the contract of employment ceased to have force and effect, including the payment of death compensation benefits to the heirs of a seafarer who dies during the term of his contract as provided for in Section 20 (A) of the POEA-SEC.

Furthermore, there is no evidence to show that the deceased seafarer's illness was acquired during the term of his employment with the agency. Therefore, the Court found no substantial evidence to prove that deceased seafarer's illness which caused his death was aggravated during the term of his contract. The death of a seafarer several months after his repatriation for illness does not necessarily mean that: (a) the seaman died of the same illness; (b) his working conditions increased the risk of contracting the illness which caused his death; and (c) the death is compensable, unless there is some reasonable basis to support otherwise.

*One Shipping Corp., and/or One Shipping Kabushiki Kaisha/Japan vs. Imelda C. Penafiel.; G.R. No. 192406, January 21, 2015; Third Division; Associate Justice Diosdado Peralta, Ponente.*

## Employee Movements

### *Partner*

Catherine Mangahas has been made a partner of the firm.

Catherine “Gigi” has been with the firm for fourteen years. She has previously worked in government prior to joining the firm. She has extensive experience in complex labor, personal injury, and commercial litigation matters. She also handles corporate matters and usually deals with various government agencies on a wide variety of matters. She is an alumna of the San Beda College of Law and graduated with a degree in Bachelor of Arts, major in Political Science from the University of Santo Tomas.

### *Managing Associates*

Saben Loyola and Pedrito Faytaren, Jr. were promoted as Managing Associates of the firm.

Saben has been with the firm for ten years. His areas of expertise include general corporate law, mergers and acquisitions, labor law and transportation litigation. He heavily assists clients in setting up businesses in the Philippines as well as their corporate requirements.

Pedrito “Ped” has been with the firm for ten years. He has a wide experience in litigation involving criminal, labor, personal injury and civil cases. He also has extensive experience in on-board investigations and casualty work.

### *Senior Associate*

Richard Sanchez was promoted as a Senior Associate of the firm. He has been with the firm for five years. Richard deals with a lot of complex commercial, criminal, civil, administrative and labor litigation cases. He has also been dealing with P and I matters and some dry and wet shipping works.

## Holiday Notice

In view of the Lenten / Easter holidays in the Philippines, our offices will be closed from Thursday, 2 April to Sunday, 5 April. Our offices will also be closed on Thursday, 9 April in view of a national holiday in the Philippines.

Emails will be monitored but for urgent matters, please call our 24/7 mobile: 63 917 830 8384

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*“Del Rosario & Del Rosario is more or less unrivalled when it comes to maritime work in the Philippines” from Asia-Pacific, The Legal 500, 2014, p. 497*

*“Del Rosario & Del Rosario is often first port of call for employment law within the maritime industry, where it represents shipowners, agents, insurers and port owners.” Asia-Pacific, The Legal 500, 2014, p. 494*

*“Offers comprehensive shipping expertise. Maintains an excellent reputation for representing P&I firms and handling collision and crew casualties. A strong team that is well known in the market.” Chambers Asia Pacific, 2014 p. 949*

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This publication aims to provide commentary on issues affecting the manning industry, analysis of recent cases and updates on legislation. It is meant to be brief and is not intended to be legal advice. For further information, please email [ruben.delrosario@delrosario-pandiphil.com](mailto:ruben.delrosario@delrosario-pandiphil.com).

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