SECOND DIVISION

LWV CONSTRUCTION CORPORATION, Petitioner,	**G.R. No. 172342** Present:
- versus -	QUISUMBING, *J.*, Chairperson, CARPIO MORALES, CHICO-NAZARIO,[*] LEONARDO-DE CASTRO,[**] and BRION, *JJ*.
MARCELO B. DUPO, Respondent.	Promulgated: July 13, 2009

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DECISION

QUISUMBING, *J.*:

Petitioner LWV Construction Corporation appeals the Decision[1] dated December 6, 2005 of the Court of Appeals in CA-G.R. SP No. 76843 and its Resolution[2] dated April 12, 2006, denying the motion for reconsideration. The Court of Appeals had ruled that under Article 87 of the Saudi Labor and Workmen Law (Saudi Labor Law), respondent Marcelo Dupo is entitled to a *service award or longevity pay* amounting to US$12,640.33.

The antecedent facts are as follows:

Petitioner, a domestic corporation which recruits Filipino workers, hired respondent as Civil Structural Superintendent to work in Saudi Arabia for its principal, Mohammad Al-Mojil Group/Establishment (MMG). On February 26, 1992, respondent signed his first overseas employment contract, renewable after one year. It was renewed five times on the following dates: May 10, 1993, November 16, 1994, January 22, 1996, April 14, 1997, and

March 26, 1998. All were fixed-period contracts for one year. The sixth and last contract stated that respondents employment starts upon reporting to work and ends when he leaves the work site. Respondent left Saudi Arabia on April 30, 1999 and arrived in the Philippines on May 1, 1999.

On May 28, 1999, respondent informed MMG, through the petitioner, that he needs to extend his vacation because his son was hospitalized. He also sought a promotion with salary adjustment.[3] In reply, MMG informed respondent that his promotion is subject to managements review; that his services are still needed; that he was issued a plane ticket for his return flight to Saudi Arabia on May 31, 1999; and that his decision regarding his employment must be made within seven days, otherwise, MMG will be compelled to cancel [his] slot.[4]

On July 6, 1999, respondent resigned. In his letter to MMG, he also stated:

> x x x x
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> I am aware that I still have to do a final settlement with the company and hope that during my more than seven (7) [years] services, as the Saudi Law stated, I am entitled for a *long service award*.[5] (Emphasis supplied.)
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> x x x x

According to respondent, when he followed up his claim for *long service award* on December 7, 2000, petitioner informed him that MMG did not respond.[6]

On December 11, 2000, respondent filed a complaint[7] for payment of *service award* against petitioner before the National Labor Relations Commission (NLRC), Regional Arbitration Branch, Cordillera Administrative Region, Baguio City. In support of his claim, respondent averred in his position paper that:

> x x x x
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> Under the Law of Saudi Arabia, an employee who rendered at least five (5) years in a company within the jurisdiction of Saudi Arabia, is entitled to the so-called *long service award which is known to others as longevity pay* of at least one half month pay for every year of service. In excess of five years an employee is entitled to one month pay for every year of service. In both cases inclusive of all benefits and allowances.
>
> This benefit was offered to complainant before he went on vacation, hence, this was engrained in his mind. He reconstructed the computation of his long service award or longevity pay and he arrived at the following computation exactly the same with the amount he was previously offered [which is US$12,640.33].[8] (Emphasis supplied.)

x x x x

Respondent said that he did not grab the offer for he intended to return after his vacation.

For its part, petitioner offered payment and prescription as defenses. Petitioner maintained that MMG pays its workers their *Service Award or Severance Pay* every conclusion of their Labor Contracts pursuant to Article 87 of the [Saudi Labor Law]. Under Article 87, payment of the award is at the end or termination of the Labor Contract concluded for a specific period. Based on the payroll,[9] respondent was already paid his *service award or severance pay* for his latest (sixth) employment contract.

Petitioner added that under Article 13[10] of the Saudi Labor Law, the action to enforce payment of the *service award* must be filed within one year from the termination of a labor contract for a specific period. Respondents six contracts ended when he left Saudi Arabia on the following dates: April 15, 1993, June 8, 1994, December 18, 1995, March 21, 1997, March 16, 1998 and April 30, 1999. Petitioner concluded that the one-year prescriptive period had lapsed because respondent filed his complaint on December 11, 2000 or one year and seven months after his sixth contract ended.[11]

In his June 18, 2001 Decision,[12] the Labor Arbiter ordered petitioner to pay respondent *longevity pay* of US$12,640.33 or ₱648,562.69 and attorneys fees of ₱64,856.27 or a total of ₱713,418.96.[13]

The Labor Arbiter ruled that respondents seven-year employment with MMG had sufficiently oriented him on the benefits given to workers; that petitioner was unable to convincingly refute respondents claim that MMG offered him longevity pay before he went on vacation on May 1, 1999; and that respondents claim was not barred by prescription since his claim on July 6, 1999, made a month after his cause of action accrued, interrupted the prescriptive period under the Saudi Labor Law until his claim was categorically denied.

Petitioner appealed. However, the NLRC dismissed the appeal and affirmed the Labor Arbiters decision.[14] The NLRC ruled that respondent is entitled to *longevity pay which is different from severance pay*.

Aggrieved, petitioner brought the case to the Court of Appeals through a petition for

certiorari under Rule 65 of the Rules of Court. The Court of Appeals denied the petition and affirmed the NLRC. The Court of Appeals ruled that *service award is the same as longevity pay*, and that the *severance pay* received by respondent *cannot be equated with service award*. The dispositive portion of the Court of Appeals decision reads:

> **WHEREFORE**, finding no grave abuse of discretion amounting to lack or in (sic) excess of jurisdiction on the part of public respondent NLRC, the petition is denied. The NLRC decision dated November 29, 2002 as well as and (sic) its January 31, 2003 *Resolution* are hereby **AFFIRMED *in toto***.
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> **SO ORDERED.**[15]

After its motion for reconsideration was denied, petitioner filed the instant petition raising the following issues:

> I.
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> WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN FINDING NO GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION ON THE PART OF PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION.
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> II.
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> WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN FINDING THAT THE SERVICE AWARD OF THE RESPONDENT [HAS] NOT PRESCRIBED WHEN HIS COMPLAINT WAS FILED ON DECEMBER 11, 2000.
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> III.
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> WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN APPLYING IN THE CASE AT BAR [ARTICLE 1155 OF THE CIVIL CODE].
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> IV.
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> WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN APPLYING ARTICLE NO. 7 OF THE SAUDI LABOR AND WORKMEN LAW TO SUPPORT ITS FINDING THAT THE BASIS OF THE SERVICE AWARD IS LONGEVITY [PAY] OR LENGTH OF SERVICE RENDERED BY AN EMPLOYEE.[16]

Essentially, the issue is whether the Court of Appeals erred in ruling that respondent is entitled to a *service award or longevity pay* of US$12,640.33 under the provisions of the Saudi Labor Law. Related to this issue are petitioners defenses of payment and prescription.

Petitioner points out that the Labor Arbiter awarded *longevity pay* although the Saudi Labor Law grants no such benefit, and the NLRC confused *longevity pay and service award*. Petitioner maintains that the benefit granted by Article 87 of the Saudi Labor Law

is *service award* which was already paid by MMG each time respondents contract ended.

Petitioner insists that prescription barred respondents claim for *service award* as the complaint was filed one year and seven months after the sixth contract ended. Petitioner alleges that the Court of Appeals erred in ruling that respondents July 6, 1999 claim interrupted the running of the prescriptive period. Such ruling is contrary to Article 13 of the Saudi Labor Law which provides that no case or claim relating to any of the rights provided for under said law shall be heard after the lapse of 12 months from the date of the termination of the contract.

Respondent counters that he is entitled to *longevity pay* under the provisions of the Saudi Labor Law and quotes extensively the decision of the Court of Appeals. He points out that petitioner has not refuted the Labor Arbiters finding that MMG offered him *longevity pay* of US$12,640.33 before his one-month vacation in the Philippines in 1999. Thus, he submits that such offer indeed exists as he sees no reason for MMG to offer the benefit if no law grants it.

After a careful study of the case, we are constrained to reverse the Court of Appeals. We find that respondents *service award* under Article 87 of the Saudi Labor Law has already been paid. Our computation will show that the *severance pay* received by respondent was his *service award*.

Article 87 clearly grants a **service award**. It reads:

Article 87

> **Where the term of a labor contract concluded for a specified period comes to an end** or where the employer cancels a contract of unspecified period, **the employer shall pay to the workman an award for the period of his service** to be computed on the basis of half a months pay for each of the first five years and one months pay for each of the subsequent years. The last rate of pay shall be taken as basis for the computation of the award. For fractions of a year, the workman shall be entitled to an award which is proportionate to his service period during that year. Furthermore, the workman shall be entitled to the **service award** provided for at the beginning of this article in the following cases:
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> A. If he is called to military service.
> B. If a workman resigns because of marriage or childbirth.
> C. If the workman is leaving the work as a result of a force majeure beyond his control.[17] (Emphasis supplied.)

Respondent, however, has called the benefit other names such as *long service award* and *longevity pay*. On the other hand, petitioner claimed that the *service award* is the same

as *severance pay*. Notably, the Labor Arbiter was unable to specify any law to support his award of *longevity pay*.[18] He anchored the award on his finding that respondents allegations were more credible because his seven-year employment at MMG had sufficiently oriented him on the benefits given to workers. To the NLRC, respondent is entitled to *service award or longevity pay* under Article 87 and that *longevity pay is different from severance pay*. The Court of Appeals agreed.

Considering that Article 87 expressly grants a service award, why is it correct to agree with respondent that service award is the same as longevity pay, and wrong to agree with petitioner that service award is the same as severance pay? And why would it be correct to say that service award is severance pay, and wrong to call service award as longevity pay?

We found the answer in the pleadings and evidence presented. Respondents position paper mentioned how his long service award or longevity pay is computed: half-months pay per year of service and one-months pay per year after five years of service. Article 87 has the same formula to compute the service award.

The payroll submitted by petitioner showed that respondent received **severance pay** of SR2,786 for his sixth employment contract covering the period April 21, 1998 to April 29, 1999.[19] The computation below shows that respondents **severance pay** of SR2,786 was his **service award** under Article 87.

Service Award = (SR5,438)[20] + (9 days/365 days)[21] x (SR5,438)
Service Award = SR2,786.04

Respondents service award for the sixth contract is equivalent only to half-months pay plus the proportionate amount for the additional nine days of service he rendered after one year. Respondents employment contracts expressly stated that his employment ended upon his departure from work. Each year he departed from work and successively new contracts were executed before he reported for work anew. His service was not cumulative. Pertinently, in *Brent School, Inc. v. Zamora*,[22] we said that a fixed term is an essential and natural appurtenance of overseas employment contracts,[23] as in this case. We also said in that case that under American law, [w]here a contract specifies the period of its duration, it terminates on the expiration of such period. A contract of employment for a

definite period terminates by its own terms at the end of such period.[24] As it is, Article 72 of the Saudi Labor Law is also of similar import. It reads:

> A labor contract concluded for a specified period shall terminate upon the expiry of its term. If both parties continue to enforce the contract, thereafter, it shall be considered renewed for an unspecified period.[25]

Regarding respondents claim that he was offered US$12,640.33 as longevity pay before he returned to the Philippines on May 1, 1999, we find that he was not candid on this particular point. His categorical assertion about the offer being engrained in his mind such that he reconstructed the computation and arrived at the computation exactly the same with the amount he was previously offered is not only beyond belief. Such assertion is also a stark departure from his July 6, 1999 letter to MMG where he could only express his hope that he was entitled to a long service award and where he never mentioned the supposed previous offer. Moreover, respondents claim that his monthly compensation is SR10,248.92[26] is belied by the payroll which shows that he receives SR5,438 per month.

We therefore emphasize that such payroll should have prompted the lower tribunals to examine closely respondents computation of his supposed longevity pay before adopting that computation as their own.

On the matter of prescription, however, we cannot agree with petitioner that respondents action has prescribed under Article 13 of the Saudi Labor Law. What applies is Article 291 of our Labor Code which reads:

> **ART. 291.** ***Money claims*****.** All money claims arising from employer-employee relations accruing during the effectivity of this Code shall be filed within three (3) years from the time the cause of action accrued; otherwise they shall be forever barred.
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> x x x x

In *Cadalin v. POEAs Administrator*,[27] we held that Article 291 covers all money claims from employer-employee relationship and is broader in scope than claims arising from a specific law. It is not limited to money claims recoverable under the Labor Code, but applies also to claims of overseas contract workers.[28] The following ruling in *Cadalin v. POEAs Administrator* is instructive:

> First to be determined is whether it is the Bahrain law on prescription of action based on the Amiri Decree No. 23 of 1976 or a Philippine law on prescription that shall be

the governing law.

Article 156 of the Amiri Decree No. 23 of 1976 provides:

A claim arising out of a contract of employment shall not be actionable after the lapse of one year from the date of the expiry of the contract x x x.

As a general rule, a foreign procedural law will not be applied in the forum. Procedural matters, such as service of process, joinder of actions, period and requisites for appeal, and so forth, are governed by the laws of the forum. This is true even if the action is based upon a foreign substantive law (Restatement of the Conflict of Laws, Sec. 685; Salonga, Private International Law, 131 [1979]).

A law on prescription of actions is *sui generis* in Conflict of Laws in the sense that it may be viewed either as procedural or substantive, depending on the characterization given such a law.

x x x x

However, the characterization of a statute into a procedural or substantive law becomes irrelevant when the country of the forum has a borrowing statute. Said statute has the practical effect of treating the foreign statute of limitation as one of substance (Goodrich, Conflict of Laws, 152-153 [1938]). A borrowing statute directs the state of the forum to apply the foreign statute of limitations to the pending claims based on a foreign law (Siegel, Conflicts, 183 [1975]). While there are several kinds of borrowing statutes, one form provides that an action barred by the laws of the place where it accrued, will not be enforced in the forum even though the local statute has not run against it (Goodrich and Scoles, Conflict of Laws, 152-153 [1938]). Section 48 of our Code of Civil Procedure is of this kind. Said Section provides:

If by the laws of the state or country where the cause of action arose, the action is barred, it is also barred in the Philippine Islands.

Section 48 has not been repealed or amended by the Civil Code of the Philippines. Article 2270 of said Code repealed only those provisions of the Code of Civil Procedure as to which were inconsistent with it. There is no provision in the Civil Code of the Philippines, which is inconsistent with or contradictory to Section 48 of the Code of Civil Procedure (Paras, Philippine Conflict of Laws, 104 [7th ed.]).

In the light of the 1987 Constitution, however, Section 48 [of the Code of Civil Procedure] cannot be enforced *ex proprio vigore* insofar as it ordains the application in this jurisdiction of [Article] 156 of the Amiri Decree No. 23 of 1976.

The courts of the forum will not enforce any foreign claim obnoxious to the forums public policy x x x. To enforce the one-year prescriptive period of the Amiri Decree No. 23 of 1976 as regards the claims in question would contravene the public policy on the protection to labor.[29]

x x x x

Thus, in our considered view, respondents complaint was filed well within the three-year prescriptive period under Article 291 of our Labor Code. This point, however, has already been mooted by our finding that respondents service award had been paid,

albeit the payroll termed such payment as severance pay.

WHEREFORE, the petition is **GRANTED**. The assailed Decision dated December 6, 2005 and Resolution dated April 12, 2006, of the Court of Appeals in CA-G.R. SP No. 76843, as well as the Decision dated June 18, 2001 of the Labor Arbiter in NLRC Case No. RAB-CAR-12-0649-00 and the Decision dated November 29, 2002 and Resolution dated January 31, 2003 of the NLRC in NLRC CA No. 028994-01 (NLRC RAB-CAR-12-0649-00) are **REVERSED** and **SET ASIDE**. The Complaint of respondent is hereby **DISMISSED**.

No pronouncement as to costs.

SO ORDERED.

LEONARDO A. QUISUMBING
Associate Justice

WE CONCUR:

CONCHITA CARPIO MORALES
Associate Justice

MINITA V. CHICO-NAZARIO
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Decision had been reached in consultation

before the case was assigned to the writer of the opinion of the Courts Division.

LEONARDO A. QUISUMBING
Associate Justice
Chairperson

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairpersons Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Courts Division.

REYNATO S. PUNO
Chief Justice

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[*] Designated member of the Second Division per Special Order No. 658.

[**] Designated member of the Second Division per Special Order No. 635.

[1] *Rollo*, pp. 17-29. Penned by Associate Justice Lucenito N. Tagle, with Associate Justices Rodrigo V. Cosico and Regalado E. Maambong concurring.

[2] Id. at 30-31.

[3] CA *rollo*, p. 26.

[4] Id. at 27.

[5] Id. at 28.

[6] Id. at 19.

[7] Id. at 8.

[8] Id. at 20-21.

[9] Id. at 93.

[10] Id. at 153.

Article 13

No complaint shall be heard by any Commission in respect of violations of the provisions of this Law or of the rules, decisions or orders issued in accordance therewith, after the lapse of twelve months from the date of the occurrence of such violation. No case or claim relating to any of the rights provided for in this Law shall be heard after the lapse of twelve months from the date of termination of the contract. Also, no action or claim relating to any of the rights provided for in any previous regulations shall be heard after the lapse of one full year from the effective date of this Law.

[11] Id. at 11-13.

[12] Id. at 34-38.

[13] Id. at 38.

[14] Id. at 99.

[15] *Rollo*, p. 28.
[16] Id. at 185.
[17] CA *rollo*, pp. 172-173.
[18] Id. at 36-37.
[19] Id. at 93.
[20] Id. Respondents monthly salary is SR5,438.
[21] April 21, 1999 to April 29, 1999 is 9 days.
[22] G.R. No. 48494, February 5, 1990, 181 SCRA 702.
[23] Id. at 714.
[24] Id. at 709.
[25] CA *rollo*, p. 166.
[26] Id. at 21.
[27] G.R. Nos. 104776 and 104911-14, December 5, 1994, 238 SCRA 721.
[28] *Degamo v. Avantgarde Shipping Corp.*, G.R. No. 154460, November 22, 2005, 475 SCRA 671, 676-677, reiterating the ruling in *Cadalin v. POEAs Administrator,* supra at 721.
[29] *Cadalin v. POEAs Administrator*, supra at 760-762.