

IN THE SUPREME COURT OF SEYCHELLES

(ADMIRALTY JURISDICTION)

CASE No. CS 263 OF 1996

**THE CAPTAIN OFFICERS AND CREW OF THE FISHING VESSEL
"ARISTOTEL"**

PLAINTIFFS

VERSUS

THE OWNERS OF THE FISHING VESSEL "ARISTOTEL"

DEFENDANTS

MOSCOW NARODNY BANK LTD

INTERVENOR

CASE NO. C.S. 262 OF 1996

**THE CAPTAIN OFFICERS AND CREW OF THE FISHING VESSEL
"RODIOS"**

PLAINTIFFS

VERSUS

THE OWNERS OF THE FISHING VESSEL "RODIOS"

DEFENDANTS

MOSCOW NARODNY BANK LTD

INTERVENOR

CASE NO. C.S. 264 OF 1996

**THE CAPTAIN OFFICERS AND CREW OF THE FISHING VESSEL
"DEMOSFEN"**

PLAINTIFFS

VERSUS

THE OWNERS OF THE FISHING VESSEL "DEMOSFEN"

MOSCOW NARODNY BANK LTD

INTERVENOR

CIVIL SIDE NO 262 OF 1996

Mr. K.B. Shah for the Plaintiffs

ADDENDUM TO JUDGMENT DATED 29TH NOVEMBER 2004

Perera J.

A motion dated 30th June 2005 supported by an affidavit has been filed by Mr. Kieran B. Shah Attorney at Law representing the plaintiffs in the case,

seeking a clarification of the judgment delivered on 29th November 2004 with regard to the following:

- “(a) The date from which interest runs, and*
- (b) Whether the interest can be compounded annually or should it be calculated at simple rate”.*

It has been averred that the statement of claim was to recover unpaid salaries, repatriation costs and catching bonus which had become due and payable by the time the writs were filed in this Court in September 1996. Mr. Shah relies on Article 1153 of the Civil Code of Seychelles, which is as follows-

“1153.

.....the damages arising from delayed performance shall only amount to the payment of interest fixed by law or by commercial practice these damages shall be recoverable without any proof of loss by the creditor. They are due from the day of the demand.....”

Thus, the plaintiffs not having been paid their dues, they became entitled to damages by way of interest for the delayed performance. Service of a “*mise en de mere*” was necessary under Article 1147 of the Civil Code before “*dommages - interets moratoire*” can be claimed. (*Attorney General v. General v. Armitage* (1956 - 1962) S.L.R. 57 and *Morris v. Costain Engineering Ltd* (1976) S.L.R.178).

As regards the date from which interest runs, it is settled law that it should be from the date of formal demand (*mise en demeure*) under Article 1148) *or the date the writ is filed in Court.* (*Juris Classeur - Articles 1146 - 1155, contrats et obligations, sub head “application de la règle - notes 15 and 43, (last paragraphs).*

Accordingly as the writs were filed on 12th September 1996, interest at 4% shall run from that day.

As regards the compounding of interest, Article 1154 of the Civil Code provides that -

“Interest accrued from capital may produce interest either by starting proceedings or by a special agreement of the parties, provided that, in the case of proceedings, the interest has been due for a whole year at leas.”

As the proceedings commenced by the filing of writs on 12th September 1996, after 12th September 1997, interest shall be compounded from year to year until payment in full. (See Articles 1146 - 1155 note 68 - *Juris Classeur - Contracts et obligations*).

The judgment of 29th November 2005 shall be executed on the basis of these clarifications.

.....

A.R. PERERA

JUDGE

Dated this 12th day of October 2005