

Arbitration awards may be enforced within 12 years of registration

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23 December 2014 | Contributed by Gan Partnership

Litigation, Malaysia

On November 3 2014 the Federal Court held that an arbitration award may be enforced within 12 years of the date on which the award is registered as a judgment of court.

In *Christopher Martin Boyd v Des Brata Das Gupta* (W-03(IM)-114-03/2013), the Federal Court decided that the applicable limitation provision to an arbitration award that has been registered as a judgment of court is Section 6(3) of the Limitation Act 1953. Accordingly, the arbitration award may be enforced within 12 years of the date on which the award is registered as a judgment of the court. This ruling overturns an earlier decision of the Court of Appeal in the same matter, which held that the applicable limitation provision is Section 6(1)(c) of the Limitation Act 1953, pursuant to which the arbitration award must be enforced within six years of issuance by the arbitral tribunal.

The appellant in *Christopher Martin Boyd* obtained an arbitration award on January 4 2000. This was registered as a judgment of the High Court on January 19 2004. Bankruptcy proceedings were then commenced on April 4 2012, more than 12 years after the award had been issued and some eight years after the 2004 judgment.

In submissions before the Federal Court, the appellant argued that the 'action' on an award under Section 6(1)(c) of the Limitation Act 1953 refers to registration of the award at the High Court, not its enforcement through execution or bankruptcy proceedings. On this basis, the appellant had six years to register the award (pursuant to Section 6(1)(c)) and a further 12 years from registration of the award to execution or bankruptcy proceedings thereon (pursuant to Section 6(3)). Otherwise, a party which chose arbitration over litigation before the Malaysia courts would effectively be faced with a shorter period for the enforcement of its award. The appeal was allowed.

In allowing the appeal, the Federal Court has given equal treatment, insofar as the statute of limitations is concerned, to a judgment arising from registration of an arbitral award and a judgment pronounced at the conclusion of a court-conducted litigation.

For further information on this topic please contact Foo Joon Liang at Gan Partnership by telephone (+603 2201 1130), fax (+603 2201 1136) or email (joonliang@ganlaw.my). The Gan Partnership website can be accessed at www.ganlaw.my.

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Foo Joon Liang