

100 Phil. 961

[ G. R. No. L-10274. February 27, 1957 ]

**PACIFIC COMMERCIAL COMPANY, PLAINTIFF AND APPELLANT, VS. VENANCIO B. AQUINO, DEFENDANT AND APPELLEE.**

**D E C I S I O N**

**REYES, J.B.L., J.:**

This case is before us on appeal by the plaintiff from a -decision of the Court of First Instance of Manila, dismissing a complaint for the recovery of money, on the ground that the action has prescribed.

The decision complained of

“This is an action for the recovery of the sum of P733.35 with interest thereon at the’ rate of 12 per cent per annum from November lit 1941, plus the amount of P73.33 as attorney’s fees and costs.

The obligation in this case was incurred on December 18, 1940, to be paid in twenty-four (24) monthly installments, the first installment falling due on January 18, 1941, and the last installment on December 18, 1942. The balance of the account is P733.35 which fell due on November 18, 1941.

Without discussing at this instance the merits of the evidence presented in this case but limiting the decision solely on the question of whether the plaintiff’s right of action is barred by the statute of limitations, the court finds that plaintiff’s right of action is barred by the statute of limitations. The right of action having accrued oh November 18, 1941, the period within which to present the claim terminated on November 18, 1951. And since the complaint in this case was filed only February 10, 1953, or more than ten (10) years after the right of action had accrued, the action has already prescribed.

This conclusion is reached by the court in view of the fact that the Moratorium Law which was formerly considered to interrupt the statute of limitations, has been declared unconstitutional by our Supreme Court. The said Moratorium Law having been declared unconstitutional, the running of the period within which to file the action was not suspended and/ therefore, under the statute of limitations the action has already prescribed.

In view of the foregoing:, tile court hereby renders judgment is favor of the defendant and against the plaintiff, ordering the dismissal of plaintiff's complaint without any special pronouncement as to costs.

So Ordered."

The appeal must be sustained. In *Rutter vs. Esteban* \*, 49 Off. Gaz., 1807, this Court did not declare the moratorium act (Republic Act No. 342) as unconstitutional and void ab *initio*; on the contrary, it recognized that the enactment of a moratorium law, suspending for, a reasonable period the remedies for the enforcement of obligations, lay within the police power of the State (*Home Building and Loan Association vs. Blaisdell*, 290 U. S. 398; 78 Law Ed. 413). What we actually ruled in the *Rutter* case was—

"That the continued operation and enforcement of Republic Act No. 342 at the present time is unreasonable and oppressive, and should not be prolonged a minute longer \* \* \*."

As a result of this holding, We have also ruled twice (*Vda. de Montilla vs. Pacific Commercial Co.*, 98 Phil., 133; and *Manila Motor Co. vs. Flores*, 52 Off. Gaz., 5804) to the effect that the operation of the moratorium orders and laws prior to the decision of the *Rutter* case (on May 18, 1953) had the effect of toiling the limitation period for the institution of court actions, since moratorium acts operate to suspend the running of the statute of limitations. Thus, granting that the period of extractive prescription of plaintiff's claim started to run on November 18, 1941, the same was suspended when the second Moratorium Executive Order (Excutive Order No. 32) was issued on March 10, 1945 (41 Off. Gaz., p. 56) since the debt was contracted before December 81, 1941; and the period continued in suspense until -the *Rutter* case was decided on May 18, 1953. By the latter date the present case had been already commenced in the Municipal Court of Manila on

February 10, 1953. Only a little over three years of the ten required by law have validly elapsed in favor of the debtor, and the action has clearly not prescribed.

The decision appealed from is reversed, and set aside; and the records will be remanded to the court of origin with directions to decide the same on the merits in accordance with the law and the evidence. Costs against the appellee. So ordered.

*Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Conception, Endencia, and Felix, JJ., concur.*

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