

G.R. No. L-9105

[G.R. No. L-9105. February 28, 1958]

CARMEN MAGDALERA, ET AL., PLAINTIFFS-APPELLEES, VS. GABRIEL BENEDICTO, DEFENDANT-APPELLANT.

D E C I S I O N

PARAS, C.J.:

On March 26, 1953, the plaintiffs brought this action against the defendant to revive a judgment rendered on September 26, 1940 by the Court of First Instance of Occidental Negros in Civil Case No. 7936 instituted by the deceased Felix Magdalera, in his capacity as Judicial Administrator of the Estate of Cipriano Magdalera, for the recovery of P2,000.00. Said judgment became final and executory on May 20, 1941. Felix Magdalera was the son of Cipriano Magdalera, and plaintiff Carmen Magdalera is the only daughter and heiress of Felix Magdalera. The past world war destroyed the records of Civil Case No. 7936 which were not reconstituted. The defendant filed a motion to dismiss, alleging that plaintiff's action was barred by the statute of limitations, that the complaint stated no cause of action, and that the plaintiffs had no legal capacity to sue. This motion was denied and the Court of First Instance of Occidental Negros rendered judgment in favor of the plaintiffs. The defendant has appealed.

It is mainly argued for the appellant that the right of action which accrued on May 20, 1941, when the judgment in Civil Case No. 7936 became final and executory, had already prescribed when the complaint was filed on March 26, 1953, because the ten-year period provided for in Section 6 of Rule 39 of the Rules of Court and Article 1444 of the Civil Code of the Philippines had already elapsed. This argument is without merit. It is noteworthy that the judgment sought to be revived ordered the defendant to pay P2,000.00 and is therefore a monetary obligation within the meaning of the Moratorium Law (Executive Orders Nos. 25 and 32). In the recent case of Bachrach Motor Co., Inc, vs. Chua Tua

Hian, G. R. No. 7929, April 24, 1957, we ruled that the Moratorium Law tolled or suspended the running of the statute of limitations from March 10, 1945 (when the Moratorium Law took effect) to July 26, 1948 (date of effectivity of Republic Act No. 342 which lifted the moratorium except as to debtors who had filed war damages claims), or 3 years, 4 months and 16 days. This rule is in line with the decision in Philippine National Bank vs. J. A. de Aboitiz, G. R. No. L-9500, April 11, 1957, and Rio y Compañia vs. Sandoval, G. R. Nos. L-9391-92, November 28, 1956. The Moratorium Law was declared unconstitutional only after May 1853. Deducting therefore, 3 years, 4 months and 16 days from the period between May 20, 1941 and March 26, 1953, we are led to the obvious result that the complaint in this case was filed within ten years.

Contrary to appellant's contention, the appellees may file and maintain the present action. Plaintiff Carmen Magdalera (wife of plaintiff Juan Gregorios) is the sole heiress of the deceased Felix Magdalera, in turn the son of the Cipriano Magdalera. In the case of Nuñez vs. Atun, G. R. no. L-8018, October 26, 1955, it was held that the legal heirs of a deceased may file an action arising out of a right belonging to their ancestor, without a separate judicial declaration as such, provided there is no pending special proceeding for the settlement of the deceased's estate.

Wherefore, the decision appealed from is hereby affirmed with costs against appellant. So ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.