

## PHILIPPINE NATIONAL BANK, PLAINTIFF AND APPELLANT, VS. JOSE R. JACINTO, DEFENDANT AND APPELLEE.

*G. R. No. L-3477. March 19, 1951*

Ponente: MONTEMAYOR, J.

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### MONTEMAYOR, J.:

On January 25, 1941, the plaintiff Philippine National Bank commenced this suit in the Court of First Instance of Nueva Ecija, against defendant Jose R. Jacinto to recover the balance of an indebtedness plus interest, amounting to P4,513.82. The defendant filed his answer in due time. The records of the case were subsequently destroyed during the Pacific war but said records were reconstituted in 1949.

On July 20, 1949, defendant filed a motion to dismiss on the ground that the debt involved was covered by the moratorium law, namely, Executive Orders Nos. 25 and 32 and Republic Act No. 342. Acting upon said motion and over the objection of the appellant, the trial court dismissed the case on the ground that it was covered by the law on moratorium. The plaintiff bank brings this case here directly on appeal and raises only questions of law.

The appellant contends that by virtue of Commonwealth Act No. 672 entitled "An Act to Rehabilitate the Philippine National Bank," said bank is exempt from the provisions and effects of the moratorium law, for it would be hard if not impossible for it to rehabilitate itself as intended by said Commonwealth Act unless it is permitted to judicially collect debts owing to it. This point has already been passed upon in the case of Philippine National Bank vs. Randrup (48 Off. Gaz., 93) wherein, through Mr. Justice Paras, we held:

"\* \* \* that the debt moratorium is general in scope and does not make any discrimination in favor of the plaintiff bank. We cannot subscribe to the argument that Commonwealth Act No. 672, passed on July 19, 1945, had the effect of repealing the Moratorium Order in so far as the plaintiff bank is concerned, because the principal purpose of said Act was merely to allow the plaintiff bank to resume business with the view to its rehabilitation, and this purpose may obviously be accomplished in spite of the debt moratorium."

In other words, the Philippine National Bank is bound by the moratorium law.

The present case, involving as it does a pre-war obligation, comes under the provisions of Republic Act No. 342. We have held in the case of Community Investment & Finance Corporation vs. Reyes (G. R. No. L-2111, September 19, 1950), that under the provisions of sections 2 and 3 of said Republic Act No. 342, it is necessary for a defendant availing himself of the benefits of said Act to prove that he has presented a war damage claim with the United States-Philippine War Damage Commission, because in the absence of such war damage claim, pre-war obligations are now enforceable. (See also the case of Intestate Estate of Fulgencio Dairo vs. Patubo, 46 Off. Gaz., Supp. to No. 11, p. 58.[\*] Outside of the allegation made in defendant's motion to dismiss that he has filed a war damage claim with the War Damage Commission, there is nothing in the record to show that such a claim has in fact been filed.

In the case of Realty Investments, Inc. vs. Villanueva, (47 Off. Gaz., 1844), speaking through Mr. Justice Tuason, we said:

"As moratorium is in derogation of the protection against the impairment of the obligation of contracts and other constitutional guarantees, justified only as an emergency measure, Executive Orders Nos. 25 and 32 are rigidly to be confined to cases which embrace only matters falling within the scope of their express purpose."

The above ruling is equally applicable to and covers Republic Act No. 342 regarding its scope and interpretation. We therefore hold that the defendant must first establish by competent evidence that he has filed a war damage claim with the War Damage Commission, before he can invoke the provisions of Republic Act No. 342.

The order of dismissal appealed from is hereby set aside. Let this case be returned to the court of origin for the reception of the evidence above-mentioned. In the absence of said evidence, the trial court will hear and decide the case on its merits. No pronouncement as to costs. So ordered.

Paras, Pablo, Bengzon, Padilla, Tuason, Reyes, Jugo and Bautista Angelo, JJ., concur.

Feria, J., concurs in the result.

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[\*]83 Phil., 605.

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