

**INTESTATE ESTATE OF THE LATE AGUSTIN B. MONTILLA, JR.,
ADELA SANTOS VDA. DE MONTILLA, ADMINISTRATRIX AND
APPELLEE, VS. PACIFIC COMMERCIAL COMPANY, CLAIMANT AND
APPELLANT.**

G.R. No. L-8223. December 20, 1955

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

The Pacific Commercial Company is a corporation organized under the laws of the Philippines with principal office in the City of Manila. All its stockholders and officers were Americans. On August 24, 1940, the Court of First Instance of Iloilo ordered Agustin Montilla, Jr. to pay to said company P905.24, with 12 per cent interest; per annum from November 5, 1939 until its full payment, plus 10 per cent attorney's fees and costs. Of said judgment debt only a partial payment of P29.10 was made leaving a balance of P876.14.

On July 5, 1939, Agustin Montilla, Jr. executed a promissory note in favor of the same company to cover the balance of the purchase price of one La Salle Touring Sedan car. Only a portion of the note was paid and on August 9, 1941, the unpaid balance was P583.15, with 12 per cent interest per annum. War broke out on December 8, 1941 between the United States and Japan with the result that the offices of the Pacific Commercial Company were closed. Its officers were all Americans who were either interned or went hiding. Among them was Francis A. Whitney, the auditor of the company who was in charge of the collection of accounts of the Iloilo office.

Iloilo City was liberated on March 19, 1945. The Province of Negros Oriental was liberated on March 24, 1945. Agustin Montilla, Jr. died on May 16, 1951 and administrative proceedings for the settlement of his estate were instituted in the court of first instance of said province sometime in September, 1951. The probate court gave notice to the creditors to file their claims within six months from September 1, 1951 and, accordingly, the Pacific Commercial Company filed its claim on October 2, 1951 covering the two pending accounts of the deceased in the amounts of P876.14 and P583.15 as mentioned above. The administratrix opposed the claim on two grounds: (1) that the claimant had no cause of action because of the debt moratorium, and (2) that its cause of action, if any, had already prescribed. The court denied the claim on the ground of prescription, and after the case was taken to the Court of Appeals, the same was certified to us on the ground that the issues raised are purely of law.

The claim of appellant which was denied by the trial court involves two items, one for P876.14 representing the balance of a judgment rendered against the deceased payment of which accrued on September 28, 1940, and the other for the sum of P583.15 being the unpaid balance of a promissory note payment of which accrued on November 7, 1940. Since then no action has been taken for their collection by appellant until October 2, 1951 when the present claim was filed in the intestate proceedings of the deceased debtor. It therefore appears that a period of more than 11 years had elapsed before this step was taken since the right to enforce their collection by

judicial action had arisen. It is perhaps for this reason that the trial court has decreed that the claim of appellant had already prescribed in the light of our statutes of limitations (Section 43, Act No. 190; Article 1144, new Civil Code). Is this decree correct in the light of the facts of this case?

We should not overlook the fact that war broke out in the Pacific on December 8, 1941 between the United States and Japan the effects of which affected adversely the Philippines. Its immediate result was the occupation of Manila by the Japanese Imperial Forces on January 1, 1942 and of the City of Iloilo on April 16, 1942 and the consequent establishment of the occupation government. This, situation cannot but cause disturbance in the normal life of the people and the regular processes of our courts. In fact, these processes became paralyzed until they were restored in those places where a semblance of peace existed upon orders of the army of occupation. While it may be said that in those places where our courts of justice resumed their functions, including Manila and Iloilo City, the statutes of limitations may not be said to have been suspended by the state of war, because then any citizen or national could invoke the aid of the courts for the enforcement or vindication of his rights, as was stated by this Court in a number of cases (*Palma, et al. vs. Celda*, Supp. Off. Gaz., Vol. 46, p. 198; *España vs. Lucido*, 8 Phil., 419), the same situation does not obtain when the parties affected are enemy aliens who by the laws of war are generally interned or placed in concentration camps. And while it has been held that "a resident alien of any nationality is not necessarily debarred from maintaining an action by the circumstance of his internment as a civilian prisoner of war" (56 Am. Jur., 247), however, this only holds true in the absence of any governmental regulation to the contrary, and as a rule, for obvious reasons, an occupation government adopts a restricted measure on this ' matter (*Ex parte Kawato*, 317 U. S. 69). And so it has been generally held that "A foreign or international war suspends the operation of the statute of limitations between the citizens of the countries at war as long as the war lasts, at least as regards enemy aliens resident in enemy territory." (54 C. J. S., p. 289.) And in connection with enemy aliens residing in the Philippines during the war, the Japanese Military Administration issued Instruction No. 28 decreeing the suspension of court actions affecting enemy aliens except in cases where express authority is obtained from the military authorities (Vol. 1, Off. Gaz., No. 5, p. 216).

It would therefore appear that our statutes of limitations cannot apply to herein appellant which is an American owned company whose stockholders and officers were enemy aliens who were then interned or hiding during the occupation and who because of their precarious situation were not in a position to invoke the aid of the courts, even if they wanted to, for the protection of their interest or of their company. And it would be most unfair if we were now to apply to appellant the effects of such statute simply because of the alternatives afforded to enemy aliens by the military order that they could secure the requisite authority for the enforcement, of their right. As the court can take judicial notice, such a predicament was most difficult, if not fraught with danger to life and security, and so it is our considered, opinion that, in the light of the situation above outlined, the cause of action of appellant to enforce the present claim cannot be deemed to have been barred by the statute of limitations.

Another circumstance that may be invoked in favor of appellant is the adoption of Executive Orders Nos. 25 and 32, known as Debt Moratorium, promulgated on November 18, 1944 and March 10, 1945, respectively, and Republic, Act 342 passed on July 26, 1948, limiting the moratorium to war sufferers, which have the effect of tolling further the limitation of the period for the institution of a court action, for the general rule is that "moratorium acts ordinarily operate to suspend, the running of limitations as to suits barred by the provisions of the act, irrespective of whether or not the debtor has sought relief thereunder." (54 C. J. S., p. 288) And this seems to be also the rule in this jurisdiction when this Court has repeatedly held in a number of cases that during the time the moratorium was in force no action could be taken to collect any outstanding monetary obligations "within the purview of the moratorium orders (*Cruz vs. Avila*, 42 Off. Gaz., No. 9, p. 2114; *De la Fuente vs. Borromeo*, 42 Off. Gaz., p. 3172; *Ma-ao Sugar Central Co. vs. Barrios*, 45 Off. Gaz., 2444).

Wherefore, the decision appealed from is reversed. The case shall be remanded to the lower court in order that it may act on the claim of appellant in accordance with its merits, with, costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.

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