

**COMMUNITY INVESTMENT FINANCE CORPORATION, PLAINTIFF
AND APPELLANT, VS. EUTQUIANO GARCIA, DEFENDANT AND
APPELLEE.***G. R. No. L-5345. May 29, 1953*

Ponente: REYES, J.

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This action was brought by plaintiff in the Court of First Instance of Manila in 1947 to recover of the defendant the sum of P44,918.94, representing the unpaid balance of the price, including interest, of certain shares of stock bought by the defendant from plaintiff in October 1936. Defendant having invoked the moratorium provided for in Executive Orders Nos. 25 and 32, the case was dismissed on that ground and plaintiff appealed to this Court, though justifying the order of dismissal, declared that in the consideration of the case Republic Act No. 342, which was approved on July 26, 1948, that is, during the pendency of the appeal, should not be overlooked. This court, therefore, ordered the case remanded to the court of origin for the presentation of the necessary evidence in view of the approval of the said Republic Act, with instructions that "the court should proceed with the trial on the merits if it should find that defendant is not a war sufferer or has not filed a war damage claim."

Once the case was again in the court of first instance, plaintiff, with the leave of court, presented a supplementary complaint, putting in issue the constitutionality of the aforementioned Republic Act. And the court, being of opinion that Republic Act No. 342 is valid and having found after trial that defendant's obligation to pay had been contracted long before the outbreak of the last war; that defendant was a war sufferer; and that he had filed his war damage claim with the War Damage Commission, dismissed the action with costs. From this decision plaintiff has appealed.

The only question for resolution is the constitutionality of Republic Act No. 342. As this, along with Executive Orders Nos. 25 and 32, has already been declared unconstitutional and void in our decision in the case of *Royal L. Rutter vs. Placido J. Esteban*,[*] G. R. No. L-3708, promulgated on May 18, 1953, the defense of moratorium predicated on said Act or executive orders can no longer be sustained.

Wherefore, the decision appealed from is revoked and the case remanded to the court below for trial and decision on the merits. With costs against the appellee.

Paras, C. J., Feria, Pablo, Bengzon, Tuason, Montemayor, Jugo, Bautista Angelo and Labrador, JJ., concur.

[*] *Supra*, p. 68.

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