

ARSENIO BARTOLOME, PLAINTIFF-APPELLANT, V.S. ISAAC AMPIL, DEFENDANT-APPELLEE.

G.R. No. L-8436. August 28, 1956

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

On July 12, 1954, this action was commenced against the defendant to recover the amount of a promissory note reading:

"Manila, Philippines,
December 17, 1941

RECEIVED from Mr. Arsenio Bartolome the sum of THREE THOUSAND PESOS (P3,000.00) P3,000.00

(SGD.) ISAAC AMPIL"

Acting upon defendant's motion to dismiss on the ground of prescription, the trial court, holding that in the absence of anything indicating a contrary intention, "the statute of limitations begins to run against an ordinary promissory note payable on demand from the date of that demand"; that inasmuch as the Moratorium Law had been declared unconstitutional by this Court in the case of Ruffer vs. Esteban (49 Official Gazzette, 1807), the said Moratorium Law did not suspend the running of prescription, and finding that from December 17, 1941 up to July 12, 1954 when the complaint was filed, there had intervened a period of more than 12 years, it dismissed the complaint, without costs. Plaintiff is now appealing from that order of dismissal.

The main question involed in the appeal is whether or not the moratorium Law, despite its having been declared unconstitutional by this Court in the case above cited, nevertheless suspended the running of the prescriptive period.

This same question was raised, and decided by this Tribunal in the affirmative in the cases of Montilla vs. Pacific Commercial, G. R. No. L-8223, on December 20, 1955, and Manila Motor Company vs. Manuel T. Flores, G. R. No. L-9396, on August 16, 1956. We therefore deem it unnecessary to discuss and decide the point beyond reiterating the doctrine laid down in those two cases.

In computing the period of suspension, we start not on November 18, 1944, when the Moratorium was first declared by virtue of Executive Order No. 25, because said Order referred only to obligations contracted after December 31, 1941, while the promissory note involved herein was issued prior thereto, namely, December 17, 1941. So we begin on March 10, 1945, the date effectivity of Executive Order No. 32, which referred to all obligations, without distinction. From the date of promissory note, December 17, 1941, up to March 10, 1945, there was a period of 3 years, 2 months, and 23 days, and from July 26, 1948 when the Moratorium Law was lifted, except as to war sufferers mentioned in Republic Act 342, up to July 12, 1954 when complaint was filed, there was a period of 5 years, 11 months, and 16 days. Adding these two periods, we have a total of 9 years, 2 months, and 9 days, which is less than the prescriptive period of 10 years.

In view of the foregoing, the order appealed from is hereby set aside, and the case is ordered remanded to the trial court for further proceedings. No costs.

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

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