

REPUBLIC OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS. THE COURT OF FIRST INSTANCE, BRANCH III, NEGROS OCCIDENTAL, AND DOLORES INFANTE, DEFENDANTS-APPELLEES.

G.R. No. L-29725. January 27, 1983

Ponente: RELOVA, J.

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RELOVA, J.:

In 1943 defendant Dolores Infante obtained loans from the Bank of Taiwan, Ltd., payable at its office in Bacolod City in the total amount of P683.10 with interest at the rate of six percent per annum, compounded quarterly.

On September 15, 1961, plaintiff Republic of the Philippines filed a complaint in the Justice of the Peace Court of Villadolid, Negros Occidental, to collect from the defendant the said amount of P683.10. The defendant moved to dismiss the complaint on the ground of prescription. The Justice of the Peace of Villadolid, after hearing, dismissed the case on the ground that the action had prescribed. The plaintiff appealed to the Court of First Instance of Negros Occidental and, on October 28, 1963, the case was dismissed on the ground that plaintiff's action had already prescribed.

Plaintiff appealed directly to this Court contending that the lower court erred (1) in holding that this action had prescribed, and (2) in dismissing the complaint.

In the case of Republic of Philippines vs. Grijaldo, 15 SCRA 681, We ruled that ". . . pursuant to the Trading with the Enemy Act, as amended, and Executive Order No. 9095 of the United States; and under Vesting Order No. P-4, dated January 21, 1946, the properties of the Bank of Taiwan, Ltd., an entity which was declared to be under the jurisdiction of the enemy country (Japan), were vested in the United States Government. Pursuant, further, to the Philippine Property Act of 1946 and Transfer Agreements dated July 20, 1954 and June 15, 1957, between the United States Government and the Republic of the Philippines, the assets of the Bank of Taiwan, Ltd. were transferred to and vested in the Republic of the Philippines. The successive transfer of the rights over the loans in question from the Bank of Taiwan, Ltd. to the United States Government and from the United States Government to the government of the Republic of the Philippines, made the Republic of the Philippines the successor of the rights, title and interest in said loans, thereby creating a privity of contract between the appellee and the appellant. . . . As successor in interest in, and transferee of, the property rights of the United States of America over the loans in question, the Republic of the Philippines had thereby become a privy to the original contracts of loan between the Bank of Taiwan, Ltd. and the appellant. It follows, therefore, that the Republic of the Philippines has a legal right to bring the present action against the appellant Jose Grijaldo."

In the same aforecited case, the borrower contended that the action had prescribed, pointing out that the loan became due on June 1, 1944 and that the complaint was filed on January 17, 1961, or after more than 16 years had elapsed - far beyond the period of ten years when an action based on a written contract should be brought to court.

The Court did not find merit in the above cited argument and further ruled that:

"Firstly, it should be considered that the complaint in the present case was brought by the Republic of the Philippines not as a nominal party but in the exercise of its sovereign functions, to protect the interests of the State over a public property. Under paragraph 4 of Article 1108 of the Civil Code prescription, both acquisitive and extinctive, does not run against the State. This Court has held that the statute of limitations does not run against the right of action of the Government of the Philippines (Government of the Philippine Islands vs. Monte de Piedad, etc., 35 Phil. 738-751). Secondly, the running of the period of prescription of the action to collect the loan from the appellant was interrupted by the moratorium laws (Executive Orders No. 25, dated November 18, 1944; Executive Order No. 32, dated March 10, 1945; and Republic Act No. 342, approved on July 26, 1948)."

In the case at bar, the loans which had no maturity dates were contracted in 1943, or during the period of the Japanese occupation of the Philippines. Ordinarily, the counting of the prescriptive period should be reckoned from the date the debt became due and demandable. However, the moratorium decrees supervene suspending the enforcement of payments of all debts and other monetary obligations contracted during the war, although in the case of *Royal L. Rutter vs. Placido J. Esteban*, 93 Phil. 68, the moratorium laws (Executive Orders Nos. 25 and 32 and Republic Act No. 342) were declared unconstitutional. (*Republic vs. Herida*, G.R. No. L-34486, December 27, 1982). Nevertheless, said laws were in effect from the time of their respective promulgations until May 18, 1953. As a consequence, before they were declared unconstitutional, they suspended the running of the prescriptive period during their effectivity. Thus, the 10-year period within which to institute the action against herein appellee began the day after the moratorium laws were declared unconstitutional or, to be precise, on May 19, 1953. It was on September 27, 1954 when plaintiff (appellant) made extra-judicial written demand on defendant (appellee). As the loans in question did not have any maturity dates and, therefore, payable on demand, prescription could have accrued, if at all, only on September 27, 1954 when petitioner made the extra-judicial demand. Plaintiff's cause of action will therefore prescribe only on September 27, 1964. And, since the complaint in this case was filed on September 15, 1961, which is within the 10-year period, the action has not yet prescribed.

ACCORDINGLY, the order of the lower court, dated October 28, 1963, dismissing the complaint is hereby SET ASIDE and the case remanded to the court below for further proceedings. With costs against the appellee.

SO ORDERED.

Melencio-Herrera and Gutierrez, Jr., JJ., concur.

Teehankee (Chairman), J., files a brief concurrence below.

Vasquez, J., in the result.

Plana, J., on official leave.

CONCURRING OPINION

TEEHANKEE, J.:

I concur on the ground that the action had not prescribed, having been filed on September 15, 1961 within the 10-year prescriptive period, counted from the lifting of the moratorium on May 19, 1953. I do not subscribe to the applicability here of the principle that prescription does not run against the State—this was a purely commercial loan that passed to our government's ownership as enemy property, subject to the laws of prescription.

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