

PHILIPPINE NATIONAL BANK, PLAINTIFF AND APPELLANT, VS. JOHN RANDRUP, VICENTE TOMAS AND PEDRO AGOY, DEFENDANTS AND APPELLEES.

G.R. No. L-1944. September 20, 1950

Ponente: PARAS, J.

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PARAS, J.:

On October 31, 1941, the Court of First Instance of Nueva Ecija rendered a judgment, "sentencing the defendants to pay jointly and severally unto the plaintiff, the sum of P591.92, with daily interest thereon from today at P0.137 plus an additional sum of P59.19 as attorney's fees, and to pay the cost of this suit." On June 30, 1947, the plaintiff, Philippine National Bank, filed in the Court of First Instance of Nueva Ecija a petition for reconstitution, in view of the loss of the records of the case. By an order dated October 1, 1947, the Court of First Instance of Nueva Ecija declared the record reconstituted with the presentation of a copy of the decision of October 31, 1941, and ordered that, after the expiration of thirty days from receipt by the defendants of copy of said order of October 1, 1947, without the defendants having taken any measure against said order, execution be issued. On October 28, 1947, the defendants filed a motion for suspension of execution in view of the debt moratorium (Executive Order No. 25 dated November 18, 1944, as amended by Executive Order No. 32 dated March 10, 1945), which motion was granted by the Court of First Instance of Nueva Ecija, in its order dated November 17, 1947. Upon denial of the motion for reconsideration filed by the plaintiff, the latter interposed the present appeal.

Although proper step for the plaintiff to have taken was to institute an action for the revival of the judgment of October 31, 1941, the error may be considered as non-prejudicial, especially when account is taken of the fact that the defendants had never objected to the procedure pursued by the plaintiff and the lower court.

The appeal is without merit, it appearing 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.

While the order suspending execution of the judgment of October 31, 1941, is correct, attention must be called to Republic Act No. 342 lifting the debt moratorium as regards prewar obligations subject to certain conditions.

The appealed order is therefore affirmed without costs. So ordered.

Moran, C.J., Ozaeta, Pablo, Bengzon, Montemayor, and Reyes, JJ., concur.

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