

REPUBLIC OF THE PHILIPPINES, (REPRESENTED FORMERLY BY THE LAND TENURE ADMINISTRATION AND NOW THE LAND AUTHORITY, PETITIONER-APPELLANT, VS. HON. COURT OF APPEALS AND THE PHILIPPI...

G.R. No. L-29390. April 12, 1989

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal by certiorari from the decision* of the Court of Appeals in CA-G.R. No. 29020-R, entitled "Republic of the Philippines, represented by the Land Tenure Administration, Plaintiff-Appellant v. Philippine National Bank, Defendant-Appellant," affirming the judgment** of the then Court of First Instance of Pampanga in Civil Case No. 1504.

As shown in the records, the antecedent facts are as follows:

On November 5, 1959, the Republic of the Philippines, represented by the Land Tenure Administration (now Land Authority), herein petitioner, filed an action for the cancellation of a mortgage credit in the sum of P200,000.00 annotated as a lien on the Transfer Certificate of Title Nos. 28975 and 1478 of the land records of Bulacan and Pampanga, respectively. As the assignee of the mortgage credit, the Philippine National Bank was named as the defendant.

In its complaint petitioner alleged, among others, that Roman R. Santos was the registered owner of the Bahay Pare Estate covered by Transfer Certificates of Title Nos. 21761 and 1777 of the land records of Bulacan and Pampanga, respectively; that the Bahay Pare Estate was the subject of a mortgage credit in the aggregate amount of P200,000.00 consisting of four (4) promissory notes all executed by Roman R. Santos at P50,000.00 each, to mature every August 31 of the years 1939, 1940, 1941 and 1942, respectively; that on May 10, 1939 the four promissory notes were assigned to the Philippine National Bank; that on June 14, 1940, the Commonwealth of the Philippines, thru the defunct Rural Progress Administration, purchased from Roman S. Santos the Bahay Pare Estate; that out of the purchase price of P1,000,000.00, Roman Santos received the sum of P800,000.00, while the amount of P200,000.00 was paid to the Philippine National Bank; that in the Deed of Absolute Sale it was stated that the parcels of land subject of the contract were "free from any liens and encumbrances"; that during the Japanese occupation the Rural Progress Administration, the predecessor of the Land Tenure Administration, lost the receipts of payment and/or deed of release of mortgage so the lien annotated on the titles was not cancelled; that upon registration of the Deed of Sale, TCT Nos. 28975 and 1478 were issued in lieu of TCT Nos. 21761 and 1777 in the name of the Commonwealth of the Philippines with the Philippine National Bank's lien annotated on said titles; that the petitioner demanded on several occasions the cancellation of the lien annotated on its titles but defendant refused to the prejudice not only of the petitioner but also of the hundreds of tenants and occupants who had purchased from the government a portion of the Bahay Pare Estate; that aside from payment, the four promissory notes matured on August 31 of the years 1939, 1940, 1941 and 1942, hence, the right to enforce said

obligations had prescribed by PNB's inaction for more than ten (10) years from the time the moratorium law was lifted on July 26, 1948; that in 1957 it filed two (2) petitions for the cancellation of the lien annotated on its title in accordance with Section 12 of Act No. 496, but it was dismissed for lack of jurisdiction. As relief petitioner prayed for the cancellation of the mortgage credit and/or lien annotated on its titles and on the subsequent titles issued to individuals who acquired a portion of the land in dispute from the government.

On November 24, 1958, private respondent Philippine National Bank, filed its answer with counterclaim. In its answer it alleged that the mortgage credit of P200,000.00 was not paid, so that the annotated lien was not cancelled and the encumbrance was carried over the title of the government; that the moratorium law has interrupted the ten (10) year period of prescription, hence, the right to enforce the mortgage credit has not been barred by the statute of limitations. Accordingly, private respondents prayed for the dismissal of the complaint; the payment of the sum of P200,000.00 with accrued interest of 6% per annum from March 9, 1939, attorney's fees and expenses of litigation. As alternative prayer, it also asked that if the amount adjudicated by the Court in its favor cannot be satisfied within ninety (90) days from the decision, the subject property should be sold in a public auction.

On the ground of prescription petitioner filed on December 2, 1958 a motion to dismiss private respondent's counterclaim (Record on Appeal, pp. 26-28). Private respondent filed its opposition on December 6, 1958 (Record on Appeal, pp. 30-37). Not being indubitable the trial court deferred its resolution of the motion in its order dated January 2, 1959 (Record on Appeal, p. 41).

On January 9, 1959, with leave of court, private respondent, filed its amended answer with counterclaim. Substantially private respondent reiterated the same line of defense and relief in its original answer. Specifically, it alleged that in addition to the moratorium law, a period of 8 years, 2 months and 8 days, reckoned from March 10, 1945 the issuance of Executive Order No. 32 up to May 18, 1953, the promulgation of the case of Rutter v. Esteban, the period of 3 years, 1 month and 25 days of Japanese occupation of the Philippines should be included in the determination of the period of interruption; that the period of prescription was also tolled when private respondent filed its opposition to the petition to cancel the lien which opposition was dismissed by the trial court; that the July 16 and September 9, 1957 orders of the trial court in G.L.R.O. Rec. No. 9856 constitute res judicata on the issue of prescription as no appeal was interposed and said orders became final and executory; that the complaint states no cause of action. In its order of January 19, 1959, the trial court admitted the amended answer with counterclaim (Record on Appeal, pp. 44-53). Reply to the amended answer with counterclaim was filed by the petitioner on February 10, 1959 (Record on Appeal, pp. 54-60).

On September 24, 1960, after hearing, the trial court rendered a decision the dispositive portion of which reads, viz:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, judgment is hereby rendered:

(1) On the complaint;

(a) Finding that of the mortgage credit of P200,000.00 only the amount of P50,000.00 had already been paid by the plaintiff to the defendant Bank with a remaining balance therefore of P150,000.00; and

(b) Ordering the plaintiff to pay the said amount of P150,000.00, with interest of 6% per annum from the date of this decision, plus attorney's fees and expenses of litigation not exceeding 10% of the total amount due.

(2) On the counterclaim.

(c) Ordering the herein plaintiff to pay to the defendant Bank within a period of 90 days from the finality of this judgment the sum of P150,000.00, plus interest at 6% per annum from the date of this decision until fully paid,

plus attorney's fees and expenses of litigation in an amount of not less than 10% of the total amount due; and

(d) Ordering that, upon failure of plaintiff to pay the said amounts stated above within a period of 90 days aforesaid to the defendant Bank, the properties covered by the mortgage be sold by the Sheriff at public auction and the proceeds thereof to be applied to the satisfaction of the judgment in accordance with the law.

Without pronouncement as to costs.

SO ORDERED."

(Record on Appeal, pp. 93-94)

On October 25, 1960, private respondent, filed a motion for reconsideration, urging the court to require petitioner to pay the interest of 6% per annum, not from the date of the decision, but from November 24, 1958 the filing of private respondent's answer with counterclaim (Record on Appeal, pp. 94-98). Said motion was denied by the trial court in its order dated December 7, 1960 (Record on Appeal, pp. 103-104).

Also on October 25, 1960 petitioner filed its notice of appeal (Record on Appeal, pp. 98-99). Its record on appeal was filed on November 9, 1960 (Record on Appeal, p. 100). Private respondent filed its Opposition dated November 25, 1960 to Petitioner's Record on Appeal (Record on Appeal, pp. 100-103). In its order dated January 14, 1961 the trial court approved the record on appeal (Record on Appeal, p. 111).

On June 22, 1968, the Court of Appeals promulgated its decision affirming in toto the judgment of the trial court. Petitioner filed a motion for reconsideration, but it was denied by the appellate court in its resolution dated July 20, 1968. Hence, the instant petition.

On August 27, 1968, this Court resolved to give due course to the petition (Rollo, p. 47). Brief for the petitioner was filed on January 23, 1969 (Rollo, p. 62). Private respondent's brief was filed on May 26, 1969 (Rollo, p. 78). For failure to file a reply brief, the court resolved to submit this case for decision on July 10, 1969 without petitioner's reply brief (Rollo, p. 79).

In its brief petitioner cited the following errors, viz:

I

"THAT THE RESPONDENT COURT OF APPEALS ERRED IN HOLDING THAT THE DEFUNCT COMMONWEALTH GOVERNMENT BEING IN EXILE DURING THE ENEMY OCCUPATION AND ITS SOVEREIGNTY SUSPENDED, COULD NOT BE SUED DURING THE WAR; HENCE THE DURATION OF THE PACIFIC WAR STARTING ON DECEMBER 8, 1941 SHOULD BE INCLUDED IN COMPUTING THE PERIOD SUSPENDING THE PERIOD OF PRESCRIPTION AS FAR AS THE THREE (3) PROMISSORY NOTES IN QUESTION ARE CONCERNED.

II

THAT THE RESPONDENT COURT OF APPEALS ERRED IN HOLDING THAT THE PETITIONER-GOVERNMENT BEING A WAR SUFFERER AND A WAR DAMAGE CLAIMANT, THE PERIOD OF PRESCRIPTION HAD BEEN EXTENDED UP TO MAY 18, 1953, WHEN THE SUPREME COURT DECLARED REPUBLIC ACT NO. 342 UNCONSTITUTIONAL IN THE CASE OF RUTTER VS. ESTEBAN." (Rollo, p. 62)

Primarily, the issue in the case at bar is whether or not the prescriptive period of ten (10) years to enforce the mortgage credit was suspended by the Pacific War and the moratorium law.

It is not disputed that on September 25, 1926 Roman R. Santos executed in favor of La Compania Agricola de Ultramar four (4) promissory notes at P50,000.00 each, to mature on August 31 of the years 1939, 1940, 1941 and 1942, respectively (Exhibit "B-1"). On January 15, 1929 the four promissory notes were assigned to a corporation PP de Augustinos (Exhibit "B-2"). On March 9, 1939 said promissory notes were assigned to R.F. Navarro and Company (Exhibit "B-3"). Finally, on May 10, 1939, the four promissory notes were assigned to the Philippine National Bank (Exhibit "B-4").

Likewise, the findings of the trial court that the promissory note which matured on August 31, 1939 was already paid is not refuted by private respondent hence, the issue for resolution affects only the remaining three (3) promissory notes.

The controversy lies on the effect of the Japanese Occupation and the moratorium law on the period of prescription.

In the early case of *Espana v. Lucido* (8 Phil. 419 [1907]), this Court had occasion to rule that war, rebellion, or insurrection suspends the statute of limitations only when the regular courts cannot be kept open and are not within the reach of the people. Thus, there is no suspension, during the duration of the war, if the regular courts are performing their functions (*Morales v. Arguelles*, 49 Off. Gaz., 5481 [1933]; *Talens, et al. v. Chuakay & Co.*, G.R. No. L-10127, June 30, 1958; *Rio 7 Compania v. Jolkipli*, 105 Phil. 447 [1959]).

In the case at bar, it may be conceded that the Court of Appeals erred in including in the computation of the period of suspension of the statute of limitations the entire period of the Pacific War from December 8, 1941 up to February 27, 1945, the re-establishment of the Commonwealth Government in the Philippines. Likewise this Court can take judicial notice of the fact that on January 3, 1942, the day after the Imperial Japanese Forces occupied the City of Manila, the Japanese Military Commander issued a proclamation to the effect that "so far as the Military Administration permits, all the laws now in force in the Commonwealth, as well as executive and judicial institutions, shall continue to be effective for the time being as in the past and all public officials shall remain in their present posts and carry on their duties as before (Quoted and cited in *Co Kin Chan v. Valdez Tan Keh and Dizon*, 75 Phil. 109 [1945]). After the creation of the Philippine Executive Commission on January 23, 1942, Executive Orders Nos. 1 and 4 were issued on January 30 and February 5, 1942, respectively, allowing the Supreme Court, the Court of Appeals, the Courts of First Instance, and the Justices of the Peace and Municipal Courts to perform their functions. When the so-called Republic of the Philippines was inaugurated on October 14, 1943, the courts continued to administer the laws then in force in the Philippines. In fact, the Civil Code provides:

"Art. 1136. Possession in wartime, when the civil courts are not open, shall not be counted in favor of the adverse claimant."

Thus, the prescriptive period of the promissory notes which matured on August 31, 1940 and August 3, 1941 was effectively interrupted from December 1941 up to January 30, 1942, the date most courts opened. As regard the other promissory note which matured on August 31, 1942 the prescriptive period was not interrupted by war, because on the date of its maturity the private respondent could already seek relief in courts and enforce its rights as the regular courts were open and performing its function. With the courts in operation and with the establishment of a de facto government under the Philippine Executive Commission and then later the so-called Republic of the Philippines during the Japanese military occupation (*Co Kim Chan v. Valdez Tan Keh and Dizon*, supra), private respondent should have instituted an action in court, if only to legally interrupt the prescriptive period, against the de facto government which succeeded and assumed not only the governmental functions but also the proprietary obligations of the Commonwealth Government in exile in the United States. Transmission of the monetary obligation is discernible and implied upon the creation on January 23, 1942 by the Philippine Executive Commission of the Bureau of Agricultural Administration which assumed the function and activities of

the National Land Settlement Administration and the Rural Progress Administration. On August 9, 1944 Ordinance No. 27 was issued by then President Jose P. Laurel transferring the duties and functions of the Bureau of Agricultural Administration to the Bureau of Agricultural Development. Said agencies were not only authorized to receive payments for lots due in favor of the Commonwealth government in exile, but were also granted authority to dispose of the Bahay Pare Estate and other lands under the administration and supervision of the defunct Rural Progress Administration.

On the effect of the moratorium law on the statute of limitations, on several occasions, this Court ruled that Executive Order No. 32 dated March 10, 1945 suspended the payment of all monetary obligations contracted before December 8, 1941. Because of the suspension of payments the running of the prescriptive period was also tolled or interrupted from March 10, 1945 to July 26, 1948, or for a period of three years, four months and sixteen days (*Montilla v. Pacific Commercial Company*, 98 Phil. 133 [1955]; *Pacific Commercial Company v. Aquino*, 100 Phil. 961 [1957]; *Bachrach Motor Co., Inc. v. Chua Tian*, 100 Phil. 184 [1957]; *Liboro v. Finance and Mining Investment Corp.*, 102 Phil. 489 [1957]). However, for war damage claimants in accordance with Republic Act No. 342 dated July 26, 1948, it was held in a number of cases that the suspension of the statute of limitations started with the issuance of Executive Order No. 32 on March 10, 1945 and lasted up to May 18, 1953 when Republic Act No. 342 was declared unconstitutional by this Court in *Rutter v. Esteban* (93 Phil. 68 [1953]). In other words, during the duration of the moratorium law, or for a period of 8 years, 2 months and 8 days, the prescriptive period was also suspended for debtors with war damage claims (*Tiosejo v. Dag, et al.*, L-9944, April 10, 1937; *Levi Hermanos, Inc. v. Perez*, L-14487, April 29, 1960; *Nielson & Co., Inc. v. Lepanto Consolidated Mining Co.*, 135 Phil. 532 [1969]; *Republic v. Hernaez*, 31 SCRA 219 [1970]; *Republic v. Grizaldo*, 15 SCRA 681 [1965]; *De Agbayani Philippine National Bank*, 38 SCRA 429 [1971]).

Petitioner's view however that Executive Order NO. 342 applies only to private parties and not to herein petitioner, is untenable. While Section 2 thereof speaks of "all debts and other monetary obligations payable by private parties within the Philippines originally incurred or contracted before December 8, 1941 x x x" it should be remembered that when it assumed the obligation of the original debtor Roman R. Santos, petitioner was subrogated to the rights and obligations of said private party. Furthermore, the Court of Appeals correctly ruled that judicial notice can be taken that petitioner Republic of the Philippines was a war sufferer and did not need to be a war damage claimant. Hence, the period of prescription had been suspended with respect to the monetary claim of the defendant PNB against the plaintiff Republic until May 18, 1953.

In resume, We can therefore, conclude that during the duration of the moratorium law, from March 10, 1945 up to May 18, 1953 or for a period of 8 years, 2 months and 8 days, the statute of limitations was interrupted so that said period must be considered in determining whether or not the action to enforce the three promissory notes has prescribed. Likewise, except for the promissory note which matured on August 31, 1942, the outbreak of the Pacific War from December, 1941 up to January 30, 1942 must also be considered as it also interrupted the statute of limitations.

As private respondent's answer with counterclaim was filed on November 24, 1958, only 9 years, 8 months and 23 days had lapsed from the time the promissory note became due on August 31, 1940, after the period of moratorium and the war totaling a period of 8 years, 3 months and 31 days are deducted. Similarly, after deducting the same period of interruption, for the promissory note which matured on August 31, 1941, only 7 years, 8 months and 23 days had lapsed. For the promissory note which matured on August 31, 1942 only 7 years, and 16 days had lapsed. Clearly, private respondent's right to enforce and collect the mortgage credit within the prescriptive period of ten years is not barred by prescription.

PREMISES CONSIDERED, the instant petition is **DENIED** for lack of merit, and the decision appealed from is

AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

* Penned by Justice Jose S. Rodriguez and concurred in by Justices Francisco R. Capistrano and Edilberto Soriano.

** Written by Judge Felix R. Domingo.

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