

**IN THE MATTER OF THE INTESTATE ESTATE OF THE LATE
PORFIRIO VILLARIN, DECEASED, PHILIPPINE NATIONAL BANK,
PETITIONER-CLAIMANT-APPELLANT, VS. PURIFICACION VDA. DE
VILLARIN, PORFIR...**

G.R. No. L-41036. September 05, 1975

Ponente: MARTIN, J.

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MARTIN, J.:

Appeal on a question of law from the order dated December 20, 1967 of the Court of First Instance of Ozamis Occidental, denying the claim of claimant-appellant Philippine National Bank against the Intestate Estate of Porfirio Villarín in Special Proceeding No. 530 of the Court of First Instance of Misamis Occidental.

It appears that on July 7, 1955, the Philippine National Bank obtained a judgment in its favor and against Porfirio Villarín in Civil Case No. 22360 of the Court of First Instance of Manila, sentencing the latter to pay the Philippine National Bank (a) on the first cause of action, the sum of P13,669.60 as of June 23, 1953, plus a daily interest of P2.84 on P13,000.00 from June 24, 1953 until fully paid, plus 10% of the amount due as attorney's fees; and (b) on the second cause of action, the sum of P31,625.74 as of June 23, 1953, plus a daily interest of P6.57 on P30,000.00 from June 24, 1953 until fully paid, plus 10% of the amount due as attorney's fees, and to pay the costs of this suit.

On January 18, 1961, Porfirio Villarín died in Misamis Occidental without leaving any will. The Philippine National Bank claims to have learned of his death only sometime in the middle of 1963.

On July 13, 1965, the Philippine National Bank filed a petition in the Court of First Instance of Misamis Occidental for the issuance of letters of administration of the Intestate Estate of Porfirio Villarín for the reason that no proceedings for the settlement of his estate had been instituted up to that time by his widow or any of his heirs.

On September 24, 1965, letters of administration were issued in favor of the widow, Mrs. Purificación Vda. de Villarín, who, thereupon assumed her duties as administratrix.

On March 9, 1966, Philippine National Bank filed with the Court of First Instance of Misamis Occidental its claims against the Intestate Estate of the deceased Porfirio Villarín for the amount awarded to it in the aforementioned judgment.[1]

On April 25, 1966, Purificación Vda. de Villarín, the administratrix of the Intestate Estate of Porfirio Villarín, filed her answer alleging that the claim of appellant Bank as judgment creditor of the deceased Porfirio Villarín in Civil Case No. 22360 has prescribed under Article 1144, No. (3) of the Civil Code which limits to ten (10) years the prescriptive period within which an action to revive a judgment may be filed.

On September 18, 1967, Porfirio Villarín, Jr. assisted by his mother, Purificación Vda. de Villarín, likewise filed

an opposition to the claim of the petitioner-claimant contending that said claim has been barred by the Statute of Limitations; that the money judgment relied upon by claimant Bank could have been enforced by an independent civil action for revival of judgment under Section 6, Rule 39 of the Rules of Court; and that the failure of the claimant Bank to institute such action for revival of judgment within the ten-year period from the time the judgment became final and executory on August 11, 1965 has watered down its claim to a mere natural obligation which does not grant a right of action to enforce its performance.[2]

On December 20, 1967, the Court of First Instance of Misamis Occidental, without receiving any evidence, oral or documentary, and merely allowing counsels of both parties to argue before it, issued the questioned Order which reads as follows:

"On March 17, 1966 the Philippine National Bank filed a claim against the estate for the amount of P13,669.60 as of June 23, 1953, plus a daily interest of P2.84 on P13,000.00 from June 24, 1953 until fully paid 10% of the amount due as attorney's fees; and the sum of P31,625.74 as of June 23, 1953, plus a daily interest of P6.57 on P30,000.00 from June 24, 1953 until fully paid, plus 10% of the amount due as attorney's fees.

This claim is based on a judgment against the deceased in Civil Case No. 22360 of the Court of First Instance of Manila, Branch 5 rendered on July 7, 1967.

The administratrix opposed the claim of the Philippine National Bank on the ground that the decision upon which the claim is based is already unenforceable.

"The Philippine National Bank countered that its claim has not yet prescribed nor barred by the statute of limitations for although admitting more than 10 years have already elapsed counted from the time the judgment became final and executory, the prescriptive period was interrupted by the partial payment made by the judgment debtor after judgment became executory, the last of which was on March 14, 1956. The Philippine National Bank further contended that partial payment before the prescriptive period expired is undoubtedly an implied acknowledgment of the debt, citing *Veloso vs. Fontanoza*, 13 Phil. 79. Claimant further cited Article 1155 of the New Civil Code which provides that the prescription of action is interrupted when they are filed before the Court; when there is a written extrajudicial demand by the creditors; and when there exists a written acknowledgment of the debt by the debtor.

In the course of the presentation of their evidence, claimant Philippine National Bank cited various instances wherein the deceased, during his lifetime and after the decision became final, made representations to it for grace to pay the judgment credit. The administratrix herself likewise made representations to the Philippine National Bank also for terms of payment. In short, acknowledgment of the existence of the debt.

The Court believes that the cases cited by the claimant and the instances it enumerated are not the cases in point nor the instances applicable to the present case.

It is not disputed that the claim is based on a judgment awarding certain sums of money to claimant Philippine National Bank. It is not likewise disputed that more than 10 years have elapsed since the said judgment became final and executory. Therefore, prescription of action to enforce judgment is the main question. Section 6, Rule 39 provides that a judgment may be executed on motion within 5 years from the date of its entry. After the lapse of such time and before it is barred by the statute of limitations a judgment may be enforced by action. And Article 1144 of the New Civil Code provides that an action to enforce a judgment or decree must be brought within 10 years from the time the said decree and/or judgment has become final and executory.

It appears that the claimant neither filed a motion for execution within 5 years from July 7, 1955[3] nor filed an action to revive judgment within 10 years from July 7, 1955. The claimant, Philippine National Bank not having availed of this alternatives has allowed the judgment to prescribe. After the lapse of 10 years the Philippine National Bank thereof lost all its rights based on the said judgment. (*Demetriou & Madrid vs. Lesaca and Chuanco*, 63 Phil. 112, citing *General de Tabacos vs. Martinez*, 17 Phil. 160; *Paterno vs. Aguila*, 22

Phil. 427; *Compania General de Tabacosvs. Martinez and Nolan*, 29 Phil. 515; *Arambulo vs. Court of First Instance of Laguna & Municipality of Santa Rosa*, 53 Phil. 302). The claimant herein should have (which it did not) filed an action to enforce the judgment before it was barred by the statute of limitation, and any decision on this action should have been the basis of the claim at bar.

Premises considered, the claim of the Philippine National Bank having already prescribed, and therefore, without any merit whatsoever, is hereby denied.

SO ORDERED."

From the foregoing Order, petitioner-claimant Philippine National Bank has taken an appeal to the Court of Appeals assigning the following errors:

I

"IN DENYING THE CLAIM OF CLAIMANT-APPELLANT PHILIPPINE NATIONAL BANK FILED IN SPECIAL PROCEEDING NO. 530."

II

"IN DENYING I HE CLAIM OF CLAIMANT-APPELLANT PHILIPPINE NATIONAL BANK ON THE GROUND THAT SAID CLAIM HAS PRESCRIBED."

On June 30, 1975, the Court of Appeals resolved to certify the appeal to this Court for the reason that no issue of facts be involved and that as certified by the Clerk of Court of the lower court no evidence oral or documentary was presented before the trial court because the case was not tried but merely argued before it.[4]

The basic issue posed in this appeal is whether the claim of the appellant Bank consisting of a money judgment obtained in Civil Case No. 22360 of the Court of First Instance of Manila against Porfirio Villarin which has become final and executory on August 11, 1955 could still be filed in the Intestate Estate of Porfirio Villarin after the prescriptive period often (10) years for the revival of the judgment has already lapsed. Under Section 6, Rule 39 of the Rules of Court ua judgment may be executed on motion within five (5) years from the date of its entry or from the date it becomes final and executory. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action." Appellant Bank contends that its claim has not yet prescribed because its right to file the action to revive the aforesaid money judgment was still subsisting when the judgment debtor Porfirio Villarin died on January 18, 1961 and that its right to file an action to revive said money judgment was, after the death of Porfirio Villarin, converted into a claim enforceable only in the settlement of the intestate estate proceedings of the deceased. As such, it maintains that the applicable period of prescription is not the 10-year period for filing an action to revive a judgment but the period of prescription for the filing of creditor's claim against the judgment debtor's estate under Section 2, Rule 86 of the Rules of Court.

The records show that on July 13, 1965, the appellant Bank filed a petition for the issuance of letters of administration in the settlement of the intestate estate of Porfirio Villarin and on September 24, 1965, the letters of administration was issued in favor of the widow of Porfirio Villarin, Gregoria Vda. de Villarin.

If the money judgment obtained by appellant Bank against Porfirio Villarin became final and executory on August 11, 195[5], it has up to August 11, 1965 to file an action to revive the judgment. However, appellant Bank did not actually file an action to revive the money judgment but a claim against the estate of the deceased on March 9, 1966.

Now the question is: Was the claim filed on time? We believe it was. When appellant Bank filed a petition for the

issuance of letters of administration stating therein that it was one of the creditors of the estate of the deceased, it can be considered for all legal intents and purposes that appellant Bank has made known its claim against it and since the aforesaid petition was filed within the 10-year prescriptive period for the revival of the money judgment in question, appellant Bank may be deemed to have filed its claim on time. In effect, the filing of the petition for the issuance of letters of administration is the first concrete step to take so that the creditors of the estate of the deceased may be known and recognized. Once a creditor has filed a petition for the issuance of letters of administration, the court shall issue letters of administration to a qualified person.[5] Immediately after the granting of the letters of administration, the court shall issue notice requiring all persons having money claims against the decedent to file them with the clerk of court.[6] In the notice, the court shall state the time for the filing of the claims against the estate, which shall not be more than twelve (12) nor less than six (6) months after the date of first publication of the notice x x x.[7] Immediately after the notice is issued to creditors, the administrator shall cause the notice to be published for three (3) consecutive weeks successively in the newspaper of general circulation in the province, and to be posted for the same period in four public places in the province and in two public places in municipality where the decedent last resided.[8]

In the case before Us there is no showing that the lower court has issued a notice requiring all persons having any claim against the decedent to file them with the clerk of court. But even before the lower court could issue such notice to all creditors of the estate, appellant Bank filed on March 9, 1966 its formal claim against the estate of the decedent. At first blush it would appear that the filing of the claim on March 9, 1966 was already out of time because it was filed more than seven months after the ten-year prescriptive period for reviving the money judgment has prescribed. However, considering that the appellant Bank has already filed a petition for the issuance of letters of administration in the settlement of the intestate estate of the decedent on July 13, 1965, which is within the 10 year period, the filing of the formal claim on March 9, 1966 can be made to retroact to the date when the petition for letters of administration was filed with the lower court because that was actually the time the appellant bank had made known to the court that it has a claim against the estate of the deceased. And thus having made known on time its claim against the estate of the deceased by means of its petition for the issuance of letters of administration in the settlement of the intestate estate of Porfirio Villarin, this, We believe, has given appellant Bank sufficient cause of action to assert its claim against the estate of the deceased.

IN VIEW OF THE FOREGOING, the order appealed from is hereby reversed and set aside and another order entered directing the Clerk of Court to remand the records of Special Proceeding No. 530 to the lower court for further proceedings.

SO ORDERED.

Makalintal, C J., Castro, Fernando, Makasiar, Esguerra, Aquino, and Concepcion Jr., JJ., concur.

Teehankee, J., concurs in a separate opinion.

Antonio, J., on leave.

Muñoz Palma, J., no part.

[1] ROA, pp. 5-6.

[2] Article 1423. Obligations are civil or natural. Civil obligations give a right of action to compel their performance. Natural obligations, not being based on positive law but on equity and natural law, do not grant a right of action to enforce their performance, but after voluntary fulfillment by the obligor, they authorize the

retention of what has been delivered or rendered by reason thereof. Some natural obligations are set forth in the following articles.

[3] As conceded by the parties the judgment of the Court of First Instance of Manila became final and executory on August 11, 1955.

[4] Pursuant to Section 3, Rule 50 of the Revised Rules of Court and Section 31 of the Judiciary Act of 1948.

[5] Section 6, Rule 78. When and to whom letters of administration granted. — If no executor is named in the will, or the executor or executors are incompetent, refuse the trust, or fail to give bond, or a person dies intestate; administration shall be granted:

(a) To the surviving husband or wife, as the case may be, or next of kin, or both, in the discretion of the court, or to such person as such surviving husband or wife, or next of kin, requests to have appointed, if competent and willing to serve;

(b) If such surviving husband or wife, as the case may be or next of kin, or the person selected by them, be incompetent or unwilling, or if the husband or wife, or next of kin, neglects for thirty (30) days after the death of the person to apply for administration or to request that administration be granted to some other persons, it may be granted to one or more of the principal creditors, if competent and willing to serve;

(c) If there is no such creditor competent and willing to serve, it may be granted to such other person as the court may select.

[6] Section 1, Rule 86. Notice to creditors to be issued by court. — Immediately after granting letters testamentary or of administration, the court shall issue a notice requiring all persons having money claims against the decedent to file them in the office of the clerk of said court.

[7] Section 2, Rule 86. Time within which claims shall be filed. — In the notice provided in the preceding section, the court shall state the time for the filing of claims against the estate, which, shall not be more than twelve (12) nor less than six (6) months after the date of the first publication of the notice. However, at any time before an order of distribution is entered, on application of a creditor who has failed to file his claim within the time previously limited, the court may, for cause shown and on such terms as are equitable, allow such claim to be filed within a time not exceeding one

(1) month.

[8] Section 3, Rule 86. Publications of notice to creditors. — Every executor or administrator shall, immediately after the notice to creditors is issued, cause the same to be published three (3) weeks successively in a newspaper of general circulation in the province, and to be posted for the same period in four public places in the province and in two public places in the municipality where the decedent last resided.

CONCURRING OPINION

TEEHANKEE, J.:

I concur with the main opinion of Justice Martin. Appellant bank exercised great prudence in having filed a petition for the issuance of letters of administration for the settlement of the decedent Villarin's estate on July 13, 1965 well within the ten year prescriptive period, for otherwise the decedent's heirs who apparently deliberately refrained from instituting proceedings for the estate's settlement could claim — as they did claim — that the lapse of the ten-year prescriptive period would bar the filing of any formal claim against the estate thereafter.

The bank's timely institution of such petition for the appointment of an administrator for the decedent's estate with

whom it could formally file its just money judgment claim constituted in legal effect a timely notice of its just claim within the prescriptive period. This was essential for otherwise there was no way that it could properly pursue the just collection of its claim. For all legal effects and purposes, the subsequent filing of the bank's formal claim retroacted to the date when the bank first gave due notice of its claim with the filing of its petition for issuance of letters of administration — and the claim of the decedent's heirs that the bank's claim has prescribed must therefore be rejected as untenable in law and in equity.

CONCURRING OPINION

BARREDO, J.:

My first impression of this case was that it could be governed by Section 7 of Rule 39 which is precisely entitled "Execution in case of death of party." But considering that in *Miranda vs. Abbas*, 19 SCRA 117, the Court held that said section merely "indicates against whom a writ of execution is to be enforced when the losing party dies after the entry of judgment" and does not refer to the effectivity or validity in such circumstances of the writ of execution per se, I could not but fall back on section 6 of the same rule for light as to whether or not in a case, as that at bar, where a judgment remains unsatisfied for more than five years and the judgment debtor dies, it would be necessary to file an action of revival of the judgment to enable the judgment creditor to recover the amount of his judgment from the estate of the deceased. And effectively in this connection, there is *First National City Bank of New York vs. Tan*, 4 SCRA 501 in which the Court held that it is pointless to file such an action, since the judgment itself— like a promissory note — may be filed in the probate court wherein the settlement of the estate of the debtor is pending as a claim against the estate pursuant to Section 5 of Rule 86.

In the instant case, however, it appears that the ten-year period for the prescription of the judgment against Porfirio Villarin was about to expire and still no judicial proceeding for the settlement of his estate had been opened. Confronted with this situation, and realizing perhaps that it could dispense with the revival action if there could only be a settlement proceeding where its claim could be filed, instead of reviving the judgment against the successors-in-interest of the deceased, which¹ conceivably it could have done under Section 7 of Rule 39, the Bank opted to seek the appointment of an administrator under Rule 78, particularly section 6 thereof. But hardly a month was left of the prescriptive period of the judgment when its petition for the appointment of an administrator was filed, and as it happened, the formal claim on its judgment was not filed until March 9, 1966, or several months after August 11, 1965, the last day of said period. Accordingly, the issue before Us now is, in the premises, has not the judgment and the claim founded thereon prescribed?

The main opinion gives a negative answer upon the predicate that the Bank's filing of the petition for appointment of an administrator should be considered in legal contemplation as the filing of an action for revival. With all due respect to my learned colleagues, I view it differently. Since upon the authority of *First National City Bank*, supra, an action of revival may be dispensed with and the judgment to be revived may be filed directly as a claim against the estate of the deceased, for my part, I regard the filing of such petition as in effect a simultaneous filing of the judgment as a claim with the probate court, since after all the petition must of necessity have made reference to its existence and non-satisfaction as the bases for the prosecution of an administration and settlement proceeding of the estate of the deceased. I feel that viewing and solving the problem the way I have done, albeit it will have the same consequence as in the approach in the main opinion, is closer and more consistent with the basic legal concepts and procedures involved.

Upon the foregoing considerations, I concur in the judgment reversing the trial court's order of dismissal and remanding the case for trial on the merits of the Bank's claim.

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