

NATIONAL MARKETING CORPORATION, PLAINTIFF-APPELLANT, VS. MIGUEL D. TECSON, ET AL., DEFENDANTS, MIGUEL D. TECSON, DEFENDANT-APPELLEE, THE INSURANCE COMMISSIONER, PETITIONER.

G.R. No. L-29131. August 27, 1969

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

This appeal has been certified to us by the Court of Appeals, only one question of law being involved therein.

On November 14, 1955, the Court of First Instance of Manila rendered judgment, in Civil Case No. 20520 thereof, entitled "Price Stabilization Corporation vs. Miguel D. Tecson and Alto Surety and Insurance Co., Inc.", the dispositive part of which reads as follows:

"For the foregoing consideration, the Court decides this case:

"(a) Ordering the defendants Miguel D. Tecson and Alto Surety & Insurance Co. Inc. to pay jointly and severally plaintiff PRATRA the sum of P7, 200.00 plus 7% interest from May 25, 1960 until the amount is fully paid, plus P500. 00 for attorney's fees, and plus costs;

"(b) Ordering defendant Miguel D. Tecson to indemnify his co-defendant Alto Surety & Insurance Co. Inc. on the cross-claim for all the amounts it would be made to pay in this decision, in case defendant Alto Surety & Insurance Co. Inc. pay the amount adjudged to plaintiff in this decision. From the date of such payment defendant Miguel D. Tecson would pay the Alto Surety & Insurance Co. Inc., interest at 12% per annum until Miguel D. Tecso has fully reimbursed plaintiff of the said amount."

Copy of this decision was, on November 21, 1955, served upon the defendants in said case. On December 21, 1965, the National Marketing Corporation, as successor to all the properties, assets, rights, and choses in action of the Price Stabilization Corporation, as plain-tiff in that case and judgment creditor therein, filed, with the same court, a complaint, docketed as Civil Case No. 63701 thereof, against the same defendants, for the revival of the judgment rendered in said Case No. 20520. Defendant Miguel D. Tecson moved to dismiss said complaint, upon the ground of lack of jurisdiction over the subject-matter thereof and prescription of action. Acting upon the motion and plaintiff's opposition thereto, said Court issued, on February 14, 1966, an order reading:

"Defendant Miguel Tecson seeks the dismissal of the complaint on the ground of lack of jurisdiction and prescription. As for lack of jurisdiction, as the amount involved is less than P10,000 as actually these proceedings are a revival of a decision issued by this same court, the matter of jurisdiction must be admitted. But as for prescription. Plaintiffs admit the decision of this Court became final on December 21, 1955. This case was filed exactly on December 21, 1965 - but more than ten years have passed a year is a period of 365 days (Art. 13, CCP). Plaintiff forgot that 1960, 1964 were both leap years so that when this present case was filed it was filed two days too late.

"The complaint insofar as Miguel Tecson is concerned is, therefore, dismissed as having prescribed."

The National Marketing Corporation appealed from such order to the Court of Appeals, which, on March 20, 1969, certified the case to this Court, upon the ground that the only question therein raised is one of law, namely, whether or not the present action for the revival of a judgment is barred by the statute of limitations.

Pursuant to Art. 1144-(3) of our Civil Code, an action upon a judgment "must be brought within ten years from the time the right of action accrues," which, in the language of Art. 1152 of the same Code, "commences from the time the judgment sought to be revived has become final." This, in turn, took place on December 21, 1955, or thirty (30) days from notice of the judgment - which was received by the defendants herein on November 21, 1955 - no appeal having been taken therefrom.^[1] The issue is thus confined to the date on which ten (10) years from December 21, 1955 expired.

Plaintiff-appellant alleges that it was December 21, 1965, but appellee Tecson maintains otherwise, because "when the laws speak of years x x x it shall be understood that years are of three hundred sixty-five days each" - according to Art. 13 of our Civil Code - and, 1960 and 1964 being leap years, the month of February in both had 29 days, so that ten (10) years of 365 days each, or an aggregate of 3,650 days, from December 21, 1955, expired on December 19, 1965. The lower court accepted this view in its appealed order of dismissal.

Plaintiff-appellant insists that the same "is erroneous, because a year means a calendar year (Statutory Construction, Interpretation of Laws, by Crawford, p. 383) and since what is being computed here is the number of years, a calendar year should be used as the basis of computation. There is no question that when it is not a leap year, December 21 to December 21 of the following year is one year, If the extra day in a leap year is not a day of the year, because it is the 366th day, then to what year does it belong? Certainly, it must belong to the year where it falls and, therefore, that the 366 days constitute one year."²

The very conclusion thus reached by appellant shows that its theory contravenes the explicit provision of Art. 13 of the Civil Code of the Philippines, limiting the connotation of each "year" - as the term is used in our laws - to 365 days. Indeed, prior to the approval of the Civil Code of Spain, the Supreme Court thereof had held, on March 30, 1887, that, when the law spoke of months, it meant a "natural" month or "solar" month, in the absence of express provision to the contrary. Such provision was incorporated into the Civil Code of Spain, subsequently promulgated. Hence, the same Supreme Court declared³ that, pursuant to Art. 7 of said Code, "whenever months x x x are referred to in the law, it shall be understood that the months are of 30 days", not the "natural", "solar" or "calendar" months, unless they are "designated by name", in which case "they shall be computed by the actual number of days they have." This concept was, later, modified in the Philippines, by Section 13 of the Revised Administrative Code, pursuant to which, "month shall be understood to refer to a calendar month."⁴ In the language of this Court, in *People vs. Del Rosario*⁵, "with the approval of the Civil Code of the Philippines (Republic Act 386) x x x we have reverted to the provisions of the Spanish Civil Code in accordance with which a month is to be considered as the regular 30-day month x x x and not the solar or civil month," with the particularity that, whereas the Spanish Code merely mentioned "months, days or nights," ours has added thereto the term "years" and explicitly ordains that "it shall be understood that years are of three hundred sixty-five days."

Although some members of the Court are inclined to think that this legislation is not realistic, for failure to conform with ordinary experience or practice, the theory of plaintiff-appellant herein cannot be upheld without ignoring, if not nullifying, Art. 13 of our Civil Code, and reviving Section 13 of the Revised Administrative Code, thereby engaging in judicial legislation, and, in effect, re-pealing an act of Congress. If public interest demands a reversion to the policy embodied in the Revised Administrative Code, this may be done through legislative process, not by judicial decree.

WHEREFORE, the order appealed from should be, as it is hereby affirmed, without costs.

IT IS SO ORDERED.

Concepcion, C.J., Dizon, Makalintal, Sanchez, Castro, Fernando, Capistrano, Teehankee and Barredo, JJ., concur. Reyes and Zaldivar, JJ., are on official leave abroad.

[1] Sec. 1, Rule 39, in relation to Sec. 3, Rule 31, Rules of Court.

2 Underscoring ours.

3 Decision of April 6, 1895.

4 Guzman v. Lichauco, 42 Phil. 292; Gutierrez v. Carpio, 53 Phil. 334, 335-336.

5 97 Phil. 70-71.

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