

**MARIA MINA, ET AL., PETITIONERS, VS. THE COURT OF APPEALS  
AND TEODORA FAVIS VDA. DE RIVERO, RESPONDENTS.***G.R. No. L-7534. September 27, 1955*

Ponente: MONTEMAYOR, J.

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This is a petition for review of the decision of the Court of Appeals affirming the decision of the Court of First Instance of Ilocos Sur in a case involving the Summary Settlement of the estate of one Rufina Clarin. The facts as found by the trial court and the Court of Appeals and which we accept are as follows. On December 11, 1919 Rufina Clarin in consideration of the sum of P1,000 she received from Salvador Rivero, executed in the latter's favor a deed of real estate mortgage over a house and lot located in Narvacan, Ilocos Sur. The mortgage debt was payable within one year with 12 per cent per annum interest until its complete payment, but up to the present, the debt remain unpaid. The debtor also undertook, to pay all expenses—judicial and extra judicial, including reasonable attorney's fees and court costs, should it be necessary to bring a suit for collection. Upon the death of Rivero the mortgage credit was adjudicated to his widow, the herein respondent Teodora Favis Vda. de Rivero.

Rufina Clarin died on April 28, 1929 but before her death she paid on account of the accrued interest the sums of P40 and P57 on July 16, 1924 and November 16, 1926, respectively. Among other heirs, Rufina Clarin left three daughters named Maria, Pia and Severina, all surnamed Mina. After the death of their mother, Maria in her own behalf and in behalf of her co-heirs, wrote on August 12, 1929 to Teodora Favis to the effect that she and her co-heirs were selling a parcel of land, the proceeds of which sale were intended for the payment of the debt and interest according to the wishes of their late mother. In another letter dated March 2, 1937, Maria Mina informed Teodora Favis of her intention to see her when she arrived in Ilocos Sur from Manila to talk about their account, asking for indulgence and consideration because they, apparently referring to herself and her co-heir, felt ashamed about the non-payment of the debt but that they would pay it without fail. On August 25, 1938 Maria Mina and her sister Pia Mina sent a relative named Justo Bautista to the Creditor Teodora Favis to pay, which in fact he paid the sum of P142 on account of the interest already accrued.

Because of the non-payment of the debt and interests despite the many years that had elapsed since the death of Rufina Clarin, Teodora Favis instituted the present proceedings for summary settlement in 1946. Maria was appointed administratrix of the estate. At the hearing Teodora proved and the trial court found that up to the filing of her claim, the debt and interests including attorney's fees, judicial costs and expenses amounted to P5,159 and this sum the trial court in its decision of March 28, 1949, ordered the administratrix of the estate of Rufina Clarin to pay. Maria Mina as administratrix and her two sisters Pia and Severina appealed said decision to the Court of Appeals which court as already stated affirmed the decision of the lower court. In their petition for review the petitioners attribute the following errors to the Court of Appeals:

**I**

The Court of Appeals erred in applying and interpreting the provisions of article 1973 and 1974 of the Old

Civil Code.

II

The Court of Appeals erred in holding that the indebtedness of the late Rufina Clarin has not yet prescribed.

III

The Court of Appeals erred in allowing respondent Teodora Favis Vda. de Rivero to charge 12 per cent interest on the indebtedness herein counted from two years after death of debtor up to the present.

The question of prescription involved in the present petition was also raised before the Court of Appeals. Resolving this point that Court held that the running of the period of prescription was interrupted not only when Rufina Clarin during her lifetime made payments on account of the accrued interest but also when a daughter in her own behalf and in behalf of her co-heirs wrote as we have already said to the creditor Teodora Favis in 1929 and 1937, acknowledging the existence and non-payment of the debt and asking for consideration and indulgence and to give them more time to liquidate the debt, as well as by the payment on account in 1938 made by Justo Bautista whom Maria and Pia had commissioned for that purpose. The Court of Appeals cited and applied Articles 1973 and 1974 of the old Civil Code which we reproduce below:

Art. 1973. The prescription of actions is interrupted by the commencement of a suit for their enforcement, by an extrajudicial demand by the creditor, and by any act of acknowledgment of the debt by the debtor.

Art. 1974. The interruption of the prescription of actions arising from solidary obligations shall benefit all the creditors and operate against all the debtors alike.

This provision is likewise applicable with regard to the heirs of the debtor as to obligations of all kinds.

In joint (mancomunada) obligations, when the creditor does not claim from one of the debtors more than the part for which he is liable, prescription is not interrupted thereby with respect to the other co-debtors.

Interpreting these codal provisions and applying them to the present case, the Court of Appeals thru Mr. Justice Concepcion said, and we quote with approval:

It is clear from these provisions that the period of prescription of action against a deceased debtor may be interrupted by the act of one of his several heirs. What is more, such interruption—which, pursuant to section 50, Act No. 190, renews the period of prescription—operates against all such heirs 'alike.' It was so held in the case of *Veloso vs. Fontanosa* (13 Phil. 79). From the syllabus of the decision therein rendered, which was penned by Chief Justice Arellano, we quote:

'When the running of the statute is interrupted with respect to the obligations of an heir of the deceased debtor, the interruption benefits or prejudices all heirs alike, inasmuch as each and all of them represent their ancestor and jointly succeed him in his rights and obligations.'

"Needless to say, until revoked by a subsequent decision, we are bound to adhere to the foregoing view. In other words, had Bautista made payment on August 25, 1938, upon the request of Maria Mina and Pia Mina, said payment would have renewed the period of prescription, not only against them, but, also, against their co-heir, Severina Mina."

We agree with the Court of Appeals that the running of the period of prescription was interrupted not only when Maria Mina wrote a letter acknowledging the existence of the debt as late as 1937 but also when Pia and Maria commissioned a relative, Justo Bautista, to make payment on account of the accrued interest on the debt, 1938. And, this interruption prejudices all the heirs.

The question involved in the third assignment of error was also raised in the Court of Appeals and said court passed upon the same saying that the 12 per cent interest should be paid according to the tenor of the mortgage deed, which deed was binding not only upon Rufina who executed the same but also upon her successors, the said Court adding that the claim of said heirs of Rufina Clarin that the loan should not draw interest after the lapse of two years from the death of Rufina, is not supported by any legal provision. We also agree with the Court of Appeals on this point.

In view of the foregoing, the decision appealed from is hereby affirmed, with costs.

Bengzon, Padilla, Reyes, A., Jugo, Bautista Angelo, Labrador, and Reyes, J.B.L., JJ., concur.

Judgment affirmed.

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