

FRANCISCO ESCUETA, PLAINTIFF AND APPELLANT, VS. EUTQUIANO FANDIALAN, DEFENDANT AND APPELLEE.

G.R. No. L-39675. November 29, 1974

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

In this appeal certified by the Court of Appeals as involving a pure question of law on prescription, the Court finds that the lower court correctly dismissed the plaintiff-appellant's civil action for damages arising from physical injuries filed after the lapse of 16 years on the ground that the action was already barred by the four-year statutory limitation under Article 1146 (1) of the Civil Code which provides that actions "upon an injury to the rights of plaintiff" must be instituted within four years.

The appellate court's resolution of October 23, 1974 certifying plaintiff-appellant's appeal (from the lower court's order of dismissal on the ground of prescription) to this Court as involving a pure question of law recites the following factual background:

"Plaintiff filed [on July 5, 1968] a complaint in the Court of First Instance of Laguna (Civil Case No. SP-756) against defendant for damages, praying that the latter be ordered to pay him the sums of (1) P7,000 as actual or compensatory damages, (2) P20,000 as moral damages, (3) P5,000 as exemplary damages and (4) P4,000 as attorney's fees, plus costs of suit.

"The complaint alleged that on July 2, 1952, defendant inflicted several physical injuries on the person of plaintiff for which he was charged with the crime of frustrated homicide but was convicted of slight physical injuries by the CFI of Laguna, which judgment was affirmed by the Court of Appeals on August 31, 1955 (Annex A); that on June 20, 1956, plaintiff, having reserved his right to institute a separate civil action, filed with the CFI a complaint to enforce defendant's civil liability under Article 100 of the Revised Penal Code but the same was dismissed without prejudice and costs on October 31, 1962, for lack of interest; and that despite the lapse of several years and the attempt on plaintiff's part to enforce the said civil liability, defendant failed to settle the same, thus compelling plaintiff to refile the case on July 5, 1968.

"On defendant's motion, the court dismissed the complaint on the ground of prescription, that is, 'the instant action has been barred by the Statute of Limitations because the crime of physical injuries was committed by defendant on July 2, 1952 and this case was filed on July 5, 1968, or after the lapse of 16 years, the period of prescription applicable being 4 years according to Art. 1146 (1) of the Civil Code.'"[1]

The parties do not dispute the facts as above stated. The legal issue raised is simply the correctness of the lower court's dismissal of the complaint filed after the lapse of 16 years on the ground that the action is barred by prescription, since the physical injuries were inflicted on July 2, 1952 and plaintiff's action for actual, moral and exemplary damages and attorney's fees prescribed after four years under Article 1146 of the Civil Code which provides that actions "(1) upon an injury to the rights of plaintiff and (2) upon a quasi-delict" must be instituted within four years.

The points of question refer to the date of accrual of plaintiff's cause of action for damages and to the applicable period of prescription.

On the first question of date of accrual of cause of action, the Court finds that the lower court correctly sustained defendant's contention that plaintiff's cause of action for damages accrued on July 2, 1952 when the physical injuries were inflicted as against plaintiff's contention that his cause of action accrued three years later on August 31, 1955 when the judgment of conviction for physical injuries against defendant as accused in the criminal case became final.

Here, plaintiff's (offended party) civil action for recovery of civil liability and damages from defendant (accused) would have been implicitly instituted with the criminal action, but plaintiff expressly reserved his right to institute the civil action separately. Under Article 33 of the Civil Code,[2] even without such reservation, he could prosecute his civil action for damages from the physical injuries separately and independently of the criminal action and would require only a preponderance of evidence to support his action. Such separate and independent civil action under the cited codal article proceeds to trial and final judgment irrespective of the result of the criminal action.[3]

Manifestly, then, plaintiff's civil action for damages does not fall under that category of civil actions based upon a criminal offense which are suspended to await the outcome of the criminal case under Rule 111, section 3 of the Rules of Court. Being a case of physical injuries under Article 33 of the Civil Code, plaintiff's civil action for damages did not arise from nor depend upon the result of the criminal action but from defendant's act of infliction of physical injuries. Hence, plaintiff's cause of action clearly accrued from July 2, 1952 the date that the physical injuries were inflicted on him. As of that date, he had the right to file and maintain his civil action for damages and the period of prescription started to run.

Plaintiff's cause of action was entirely independent of the result and outcome of the criminal action. Indeed, plaintiff derived no enforceable right from the judgment of conviction which became final on August 31, 1955, since no adjudication was therein made as to defendant's civil liability by virtue of plaintiff's express reservation of the filing of a separate civil suit.

On the second question of the applicable period of prescription, the Court holds that the lower court correctly ruled that the applicable prescriptive period is four years under Article 1146 (1) of the Civil Code as against plaintiff's contention that it should be ten years under Article 1144 (3) which provides for such ten-year prescriptive period for actions based "upon a judgment."

Plaintiff's civil suit for damages arising from physical injuries is clearly one based upon an injury to his rights, for which Article 1146 (1) provides a prescriptive period of four years. Plaintiff's contention that his prescriptive period should be ten years based upon the judgment of defendant's conviction for physical injuries in the criminal case is untenable. No civil action. Hence, he had no standing in the criminal action as an offended party and the verdict of conviction excluded any civil liability.

Plaintiff's invocation of Article 1144 (3) would be tenable only if he had not reserved the filing of a separate civil action and if defendant's civil liability had been determined and adjudged in the criminal case. In such case, as in other civil actions where judgment has been obtained, the action to enforce the judgment would be prescribed only after ten years, with the judgment being enforceable by mere motion within the first five years.

Plaintiff's final contention that the running of the prescriptive period was interrupted by the first civil case that he filed on June 20, 1956 which was dismissed on October 31, 1962 for lack of interest serves no purpose. On the premise that such judicial action suspended the four-year prescriptive period under Article 1155 of the Civil Code

as against the old rule that non-suit or abandonment of an action takes no time out of the period of prescription,[4] it is readily seen that from July 2, 1952 (commission of physical injuries) until the filing on June 20, 1956 of the first case, plaintiff had only twelve (12) days left of the four-year prescriptive period. The period commenced to run again from the dismissal of the case for lack of interest on October 31, 1962. There were only twelve (12) days left thereafter for plaintiff to file the case which expired on November 12, 1962. Plaintiff's filing of the second case below only on July 5, 1968 or more than five years later was much too late.

Accordingly, the appealed order of dismissal is hereby affirmed, with costs against plaintiff-appellant.

Castro, (Chairman), Makasiar, Esguerra, and Munoz Palma, JJ., concur.

[1] Emphasis and note in brackets supplied.

[2] "ART. 33. In cases of defamation, fraud, and physical injuries, a civil action for damages, entirely separate and distinct from the criminal action, may be brought by the injured party. Such civil action shall proceed independently of the criminal prosecution, and shall require only a preponderance of evidence." (Civil Code).

[3] Rule 111, section 2; see also Articles 31, 32 and 34, Civil Code.

[4] *Oriental Commercial Co. vs. Jureidini, Inc.*, 71 Phil. 25 and *Conspecto vs. Fruto*, 31 Phil. 144, cited in *Amar vs. Odiamar*, 109 Phil. 681, 685.

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