

**REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
JOSE GRUALDO, DEFENDANT AND APPELLANT.***G. R. No. L-20240. December 31, 1965*

Ponente: ZALDIVAR. J.

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In the year 1943 appellant Jose Grijaldo obtained five loans from the branch office of the Bank of Taiwan, Ltd. in Bacolod City, in the total sum of P1,281.97 with interest at the rate of 6% per annum, compounded quarterly. These loans are evidenced by five promissory notes executed by the appellant in favor of the Bank of Taiwan, Ltd., as follows: On June 1, 1943, P600.00; on June 3, 1943, P159.11; on June 18, 1943, P22.86; on August 9, 1943, P300.00; on August 13, 1943, P200.00, all notes without due dates, but because the loans were crop loans was considered that the loans were due one year after they were incurred. To secure the payment of the loan the appellant executed a chattel mortgage on the standing crops on his land, Lot No. 1494 known as Hacienda Cambugsa in Hinigaran, Negros Occidental.

By virtue of Vesting Order No. P-4, dated. January 21, 1946, and under the authority provided for in the Trading with the Enemy Act, as amended, the assets in the Philippines of the Bank of Taiwan, Ltd. were vested in the Government of the United States. Pursuant to the Philippine Property Act of 1946 of the United States, these assets, including the loans in question, were subsequently transferred to the Republic of the Philippines by the Government of the United States under Transfer Agreement dated July 20, 1954. These assets were among the properties that were placed under the administration of the Board of Liquidators created under Executive Order No. 372, dated November 24, 1950, and in accordance with Republic Act Nos. 8 and 477 and other pertinent laws.

On September 29, 1954 the appellee, Republic of the Philippines, represented by the Chairman of the Board of Liquidators, made a written extra-judicial demand upon the appellant for the payment of the account in question. The record shows that the appellant had actually received the written demand for payment, but he failed to pay.

The aggregate amount due as principal of the five loans in question, computed under the Ballantyne scale of values as of the time that the loans were incurred in 1943, was P889.64; and the interest due thereon at the rate of 6% per annum compounded quarterly, computed as of December 31, 1959 was P1,457.39; so that the total account as of December 31, 1959 was P2,377.23.

On January 17, 1961 the appellee filed a complaint in the Justice of the Peace Court of Hinigaran, Negros Occidental, to collect from the appellant the unpaid account in question. The Justice of the Peace of Hinigaran, after hearing, dismissed the case on the ground that the action had prescribed. The appellee appealed to the Court of First Instance of Negros Occidental and on March 26, 1962 the court a quo rendered a decision ordering the appellant to pay the appellee the sum of P2,377.23 as of December 31, 1959, plus interest at the rate of 6% per annum compounded quarterly from the date of the filing of the complaint until full payment was made. The appellant was also ordered to pay the sum equivalent to of the amount due as attorney's fees and the costs.

The appellant appealed directly to this Court. During pendency of this appeal the appellant Jose Grijaldo died. Upon motion by the Solicitor General this Court, in a resolution of May 13, 1963, required Manuel Lagtapon, Jacinto Lagtapon, Ruben Lagtapon and Anita L. Aguilar, who are the legal heirs of Jose Grijaldo, to appear and be substituted as appellants in accordance with Section 17 of Rule 3 of the Rules of Court.

In the present appeal the appellant contends: (1) that the appellee has no cause of action against the appellant; (2) that if the appellee has cause of action at all, that action had prescribed; and (3) that the lower court erred in ordering the appellant to pay the amount of P2,377.23.

In discussing Ms first point of contention, the appellant maintains that the appellee has no privity of contract with the appellant. It is claimed that the transaction involved in this case was a private transaction between the Taiwan Bank, Ltd. and the appellant, so that the appellee, Republic of the Philippines, could not legally bring action against the appellant for the enforcement of the obligation involved in said transaction. This contention has no merit. It is true that the Bank of Taiwan, Ltd. was the original creditor and the transaction between the appellant and the Bank of Taiwan was a private contract of loan. However, pursuant to the Trading with the Enemy Act, as amended, and Executive Order No. 9095 of the United States; and under Vesting Order No. P-4, dated January 21, 1946, the properties of the Bank of Taiwan, Ltd., an entity which was declared to be under the jurisdiction of the enemy country (Japan), were vested in the United States Government. Pursuant, further, to the Philippine Property Act of 1946 and Transfer Agreements dated July 20, 1954 and June 1957, between the United States Government and the Republic of the Philippines, the assets of the Bank of Taiwan, Ltd. were transferred to and vested in the Republic of the Philippines. The successive transfers of the rights over the loans in question from the Bank of Taiwan, Ltd. to the United States Government, and from the United States Government to the government of the Republic of the Philippines, made the Republic of the Philippines the successor of the rights, title and interests in said loans, thereby creating a privity of contract between the appellee and the appellant. In defining the word "privity" this Court, in a case, said:

"The word 'privity' denotes the idea of succession hence, an assignee of a credit, and one subrogated to it, etc. will be privies; in short, he who, by succession is placed in the position of one of those who contracted the juridical relation and executed the private document and appears to be substituting him in his personal rights and obligation is a privy" (Alpuerto vs. Perez, 38 Phil. 785, 790).

The United States of America acting as a belligerent sovereign power seized the assets of the Bank of Taiwan, Ltd. which belonged to an enemy country. The confiscation of the assets of the Bank of Taiwan, Ltd. being an involuntary act of war, and sanctioned by international law, the United States succeeded to the rights and interests of said Bank of Taiwan, Ltd. over the assets of said bank. As successor in interest in, and transferee of, the property rights of the United States of America over the loans in question, the Republic of the Philippines had thereby become a privy to the original contracts of loan between the Bank of Taiwan, Ltd. and the appellant. It follows, therefore, that the Republic of the Philippines has a legal right to bring the present action against the appellant Jose Grijaldo.

The appellant likewise maintains, in support of his contention that the appellee has no cause of action, that because the loans were secured by a chattel mortgage on the standing crops on a land owned by him and those crops were lost or destroyed through enemy action his obligation to pay the loans was thereby extinguished. This argument is untenable. The terms of the promissory notes and the chattel mortgage that the appellant executed in favor of the Bank of Taiwan, Ltd. do not support the claim of appellant. The obligation of the appellant under the five promissory notes was not to deliver a determinate thing; namely, the crops to be harvested from his land, or the value of the crops that would be harvested from his land. Rather, his obligation was to pay a generic thing the amount of money representing the total sum of the five loans, with interest. The transaction between the appellant

and the Bank of Taiwan, Ltd. was a series of five contracts of simple loan of sums of money. "By a contract of (simple) loan, one of the parties delivers to another . . . money or other consumable thing upon the condition that the same amount of the same kind and quality shall be paid." (Article 1933, Civil Code.) The obligation of the appellant under the five promissory notes evidencing the loans in question is to pay the value thereof; that is, to deliver a sum of money—a clear case of an obligation to deliver a generic thing. Article 1263 of the Civil Code provides:

"In an obligation to deliver a generic thing, the loss or destruction of anything¹ of the same kind does not extinguish the obligation".

The chattel mortgage on the crops growing on appellant's land simply stood as a security for the fulfillment of appellant's obligation covered by the five promissory notes, and the loss of the crops did not extinguish his obligation to pay, because the account could still be paid from other sources aside from the mortgaged crops.

In his second point of contention, the appellant maintains that the action of the appellee had prescribed. The appellant points out that the loans became due on June 1, 1944; and when the complaint was filed on January 17, 1961 a period of more than 16 years had already elapsed—far beyond the period of ten years when an action based on a written contract should be brought to court.

This contention of the appellant has no merit. Firstly, it should be considered that the complaint in the present case, was brought by the Republic of the Philippines not as a nominal party but in the exercise of its sovereign functions, to protect the interests of the State over a public property. Under paragraph 4 of Article 1108 of the Civil Code prescription, both acquisitive and extinctive, does not run against the State. This Court has held that the statute of limitations does not run against the right of action of the Government of the Philippines (Government of the Philippine Islands vs. Monte de Piedad, etc. 35 Phil. 738-751). Secondly, the running of the period of prescription of the action to collect the loan from the appellant was interrupted by the moratorium laws (Executive Order No. 25, dated November 18, 1944; Executive Order No. 32, dated March 10¹, 1945; and Republic Act No. 342, approved on July 26, 1948). The loan in question, as evidenced by the five promissory notes, were incurred in the year 1943, or during the period of Japanese occupation of the Philippines. This case is squarely covered by Executive Order No. 25, which became effective on November 18, 1944, providing for the suspension of payments of debts incurred after December 31, 1941. The period of prescription was, therefore, suspended beginning November 18, 1944. This Court, in the case of Rutter vs. Esteban (L-3708, May 18, 1953; 93 Phil 68), declared on May 18, 1953 that the Moratorium Laws, R.A. No. 342 and Executive Order Nos. 25 and 32, are unconstitutional; but in that case this Court ruled that the moratorium laws had suspended the prescriptive period until May 18, 1953. This ruling was categorically reiterated in the decision in the case of Manila Motors vs. Flores, 99 Phil. 738, August 16, 1956. It follows, therefore, that the prescriptive period in the case now before Us was suspended from November 18, 1944, when Executive Order No. 25 took effect, until May 18, 1953 when R.A. 342 along with Executive Order Nos. 25 and 32 were declared unconstitutional by this Court. Computed accordingly, the prescriptive period was suspended for 8 years and 6 months. By the appellant's own admission, the cause of action on the five promissory notes in question arose on June 1, 1944. The complaint in the present case was filed on January 17, 1961, or after a period of 16 years 6 months and 16 days when the cause of action arose. If the prescriptive period was not interrupted by the moratorium laws, the action would have prescribed already; but, as We have stated, the prescriptive period was suspended by the moratorium laws for a period of 8 years and 6 months. If we deduct the period of suspension (8 years and 6 months) from the period that elapsed from the time the cause of action arose to the time when the complaint was filed (16 years, 6 months and 16 days) there remains a period of 8 years and 16 days. In other words, the prescriptive period run for only 8 years and 16 days. There still remained a period of one year, 11 months and 14 days of the prescriptive period when the

complaint was filed.

In his third point of contention the appellant maintains that the lower court erred in ordering him to pay the amount of P2,377.23. It is claimed by the appellant that it was an error on the part of the lower court to apply the Ballantyne Scale of values in evaluating the Japanese war notes as of June 1943 when the loans were incurred, because what should be done is to evaluate the loans on the basis of the Ballantyne Scale as of the time the loans became due, and that was in June 1944. This contention of the appellant is also without merit.

The decision of the court a quo ordered the appellant to pay the sum of P2,377.23 as of December 31, 1959 plus interest at the rate of 6% per annum compounded quarterly from the date of the filing of the complaint. The sum total of the five loans obtained by the appellant from the Bank of Taiwan, Ltd. was P1,281.97 in Japanese war notes. Computed under the Ballantyne Scale of values as of June 1943, this sum of P1,281.97 in Japanese war notes in June 1943 is equivalent to P889.64 in genuine Philippine Currency. It is this amount of P889.64 in genuine Philippine Currency which was "considered the aggregate amount due as principal of the five loans, and the amount of P2,377.23 as of December 31, 1959" was arrived at after computing the interest on the principal sum of P889.64 compounded quarterly from the time the obligations were incurred in 1943.

It is the stand of the appellee that the Ballantyne scale of value should be applied as of the time the obligation was incurred, and that was in June 1943. This stand of the appellee was upheld by the lower court; and the decision of the lower court is supported by the ruling of this Court in the case of Hilado vs. De la Costa (83 Phil 471; 46 Off. Gaz., 5472), which states:

"* * * Contracts stipulating for payments presumably in Japanese war notes may be enforced in our Courts after the liberation to the extent of the just obligation of the contracting parties and, as "said notes have become worthless, in order that justice may be done and the party entitled to be paid can recover their actual value in Philippine Currency, what the debtor or defendant bank should return or pay is the value of the Japanese military Motes in relation to the peso in Philippine Currency obtaining on the date when and at the place where the obligation was incurred unless the parties had agreed otherwise.* * *" (italics supplied)

In view of the foregoing, the decision appealed from is affirmed, with costs against the appellant. Inasmuch as the appellant Jose Grijaldo died during the pendency of this appeal, his estate must answer in the execution of the judgment in the present case.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Dizon, Regala, Makalintal and Bengzon, J. P., JJ., concur.

Judgment affirmed.

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