

COMPAÑIA MARITIMA, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND LIBBY, MCNEILL & LIBBY (PHIL.) INC., RESPONDENTS.

G.R. No. L-14949. May 30, 1960

Ponente: BARRERA, J.

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BARRERA, J.:

Petitioner Compañia Maritima appeals by certiorari from the decision Of the Court of Appeals, ordering it to pay respondent Libby, McNeil & Libby (Phil.), Inc. the sum of P4,070.95, plus legal interest from June 23, 1955 until full payment, and 20 per cent of said sum, as attorney's fees.

The contentions of appellant are: (1) the action is already barred by the Statute of Limitations; and (2) that respondent corporation is not entitled to interest and attorney's fees.

The Court of Appeals, after analyzing the evidence presented by the parties, found as satisfactorily established—and we are bound by this finding—that before the war, respondent Libby & Co. (for short) had been furnishing and selling different foodstuff to petitioner Compañia Maritima for the consumption of the crews and passengers of the latter's vessels, payable within 30 days from date of delivery, after which period, the unpaid amount would carry an interest of 12 per cent per annum "unless otherwise arranged", and that in case of litigation, an additional 20 per cent of the unpaid price would be paid as attorney's fees; that on account of such deliveries, Compañia Maritima still owed a balance of P4,070.95, for which judgment was rendered in favor of respondent Libby & Co., as stated in the beginning of this opinion.

Petitioner's contention is that, since respondent's cause of action accrued on November 30, 1951, according to the terms of the agreement as evidenced by the invoices and vouchers covering the goods delivered, and the complaint was filed only on June 23, 1955, the action had already prescribed. However, we have already held^[1] that the Moratorium Law tolled or suspended the running of the Statute of Limitation from March 10, 1945 (when said law took effect) to July 26, 1948 (date of effectivity of Rep. Act No. 342, which lifted the moratorium, except as to debtors who had filed war damage claims), or 3 years, 4 months, and 16 days. Since petitioner had filed war damage claims (See Exh. V), the moratorium was not lifted as to him, pursuant to the cited Act it continued even after the aforementioned date (July 26, 1948) to May 18, 1953, when the Moratorium Law (Rep. Act No. 342) was declared unconstitutional by this Court,^[2] or 4 years, 9 months and 22 days. Summing up, the result is 8 years, 2 months, and 8 days, which period, is deductible from the period that elapsed from November 30, 1941 (date of accrual of respondent's action) to June 23, 1955 (date of filing of said action), which is 13 years, 6 months, and 23 days. The remainder is 5 years, 4 months, and 15 days. Respondent's action based upon its signed invoices, therefore, is well within the 10-year prescriptive period, and has not been barred.

On the question of interest and attorney's fees, petitioner simply submits that in view of the "undisputed fact that all the records of defendant were destroyed during the fight for the liberation of Manila" which made it impossible for the defendant to verify whether or not it was really obligated to pay respondent Libby & Co. any amount, it

would not be "equitable nor just that petitioner should be penalized by sentencing it to pay legal interest and attorney's fees." However much appellant is entitled to sympathy, still this Court can not disregard the express contract of the parties providing for the payment of the sums which do not appear excessive or unconscionable.

Wherefore, finding no reversible error in the decision of the Court of Appeals, the same is hereby affirmed in toto, with costs against the petitioner-appellant. So ordered.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, and Gutierrez David, JJ., concur. Padilla, Reyes, J.B.L., and Endencia, JJ., took no part.

[1] Bachrach Motor Co., Inc. vs. Chua Tua Hian 101 Phil., 184; Philippine National Bank vs. Osen, et., al. G. R. No. L-10880, prom. January 31, 1958; Magdalera et. al. vs. Benedicto, G. R. No. L-9105, prom. February 28, 1958; Bachrach Motor Co., Inc. vs. Lejano, 103 Phil. 6; 56 Off. Gaz. (17) 3276.

[2] Rutter vs. Esteban, 93 Phil., 68; 49 Off. Gaz. (5) 1807.

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