

JAIME LEDESMA, PETITIONER, VS. COURT OF APPEALS AND RIZAL COMMERCIAL BANKING CORPORATION, RESPONDENTS.*G.R. No. 106646. June 30, 1993*

Ponente: REGALADO, J.

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Petitioner has filed a motion for reconsideration of the Court's resolution of March 24, 1993 which denied his petition for review on certiorari for failure to sufficiently show that respondent Court of Appeals had committed any reversible error in its questioned judgment.

On August 21, 1980, private respondent Rizal Commercial Banking Corporation filed Civil Case No. 38287 in the then Court of First Instance of Rizal against petitioner to enforce the terms of Trust Receipt Agreement No. 7389 executed by them on April 1, 1974 but which petitioner had failed to comply with. As summons could not be served on the latter, said case was dismissed without prejudice on March 3, 1981. On December 2, 1988, private respondent bank instituted Civil Case No. 88-2572 in the Regional Trial Court of Makati, Metro Manila, Branch 133, against petitioner on the same cause of action and subject matter.

Petitioner's motion to dismiss on the ground of prescription was denied and judgment was rendered in favor of private respondent by the court a quo ordering petitioner to pay private respondent P168,000.00 with interest thereon of 12% per annum from December 2, 1988 until full payment of the obligation, P16,800.00 as attorney's fees, and costs of suit. Said judgment was affirmed by respondent Court in CA-G.R. CV No. 29406 in its decision promulgated on January 7, 1992,[1] and petitioner's motion for reconsideration thereof was denied in a resolution dated August 6, 1992.[2]

Petitioner's petition for review on certiorari of the said judgment was denied in our aforesaid resolution, hence its present motion for reconsideration, dated May 5, 1993. Contending that the second action filed by private respondent bank had already prescribed, petitioner invokes the rulings in *Vda. de Nator, et al. vs. Court of Industrial Relations, et al.*[3] and *Fulton Insurance Co. vs. Manila Railroad Co., et al.*[4] and invites us "to give a second look at the apparently conflicting or divergent jurisprudence."

Article 1155 of the Civil Code provides that the prescription of an action, involving in the present case the 10-year prescriptive period for filing an action on a written contract under Article 1144(1) of the Code, is interrupted by (a) the filing of an action, (b) a written extrajudicial demand by the creditor, and (c) a written acknowledgment of the debt by the debtor. The effects of the last two instances have already been decided by this Court, the rationale wherein should necessarily apply to the first.

The matter of the interruption of the prescriptive period by reason of a written extrajudicial demand by the creditor was decided in *Overseas Bank of Manila vs. Geraldez, et al.*[5] in this wise:

"x x x. The interruption of the prescriptive period by written extrajudicial demand means that the said period would commence anew from the receipt of the demand. That is the correct meaning of interruption as distinguished from mere suspension or tolling of the prescriptive period.

x x x

"A written extrajudicial demand wipes out the period that has already elapsed and starts anew the prescriptive period. x x x.

x x x

"That same view as to the meaning of interruption was adopted in *Florendo vs. Organo*, 90 Phil 483, 488, where it was ruled that the interruption of the ten-year prescriptive period through a judicial demand means that 'the full period of prescription commenced to run anew upon the cessation of the suspension.' When prescription is interrupted by a judicial demand, the full time for the prescription must be reckoned from the cessation of the interruption. x x x."

The interruption of the prescriptive period by reason of a written acknowledgment of the debt by the debtor was dealt with in *Philippine National Railways vs. National Labor Relations Commission, et al.*,^[6] thus:

"Article 1155 of the Civil Code provides that the 'prescription of actions is interrupted' inter alia, 'when there is any written acknowledgment of the debt by the debtor.' This simply means that the period of prescription, when interrupted by such a written acknowledgment, begins to run anew; and whatever time of limitation might have already elapsed from the accrual of the cause of action is thereby negated and rendered inefficacious. x x x.

x x x

"x x x. The effect of the interruption spoken of in Article 1155 is to renew the obligation, to make prescription run again from the date of the interruption x x x."

Based on the aforecited cases, Article 1155 has twice been interpreted to mean that upon the cessation of the suspension of the prescriptive period, the full period of prescription commences to run anew. Petitioner, on the other hand, insists that in case of the filing of an action, the prescriptive period is merely tolled and continues to run again, with only the balance of the remaining period available for the filing of another action. This postulation of petitioner, if we are to adopt it, would result in an absurdity wherein Article 1155 would be interpreted in two different ways, i.e., the prescriptive period is interrupted in case of an extrajudicial demand and a written acknowledgment of a debt, but it is merely tolled where an action is filed in court.

In *Vda. de Nator*, it was held that:

"x x x The filing of the case with the CFI arrested the period of prescription (Art. 1155 NCC), and the interruption of said period lasted until the time that the dismissal for lack of jurisdiction became final. 'When prescription is interrupted by a judicial demand, the full time for the prescription must be reckoned from the cessation of the interruption' x x x. The whole period during which the case had been pending cannot be counted for arriving at the prescriptive period. In other words, the running of the period of prescription in this particular case was interrupted on August 6, 1953, when the case in the CFI was filed and began to run again on August 30, 1958, when the same Court had dismissed the case. As the complaint was filed with the CIR on December 5, 1958, the action has not yet prescribed."

This case obviously appears to have made conflicting statements since it proceeds upon a certain premise but arrives at a different conclusion. Hence, we cannot agree that the statements therein sufficiently support the thesis of petitioner.

The case of *Fulton Insurance Company* is not clear either on the matter of the interruption of the prescriptive period where an action is filed in court. It was there held that:

"There are two school(s) of thought as to the legal effect of the cessation of the interruption by an intervening

action upon the period of prescription. There is the view expressed and perhaps, not without reasons, that the full period of prescription should start to run anew, reckoned from the date of the cessation of the interruption. The contrary view is, that the cessation of the interruption merely tolls the running of the remaining period of prescription, deducting from the full period thereof the time that has already elapsed prior to the filing of the intervening action. Nevertheless, all discussion on this point is academic; considered in the light of either view, We find that the second action is not barred."

In the aforesaid case, the defendant therein moved for the dismissal of the second case alleging that the filing of the first case neither tolled nor interrupted the running of the prescriptive period. This Court ruled that the filing of the first action interrupted the running of the period, and then declared that at any rate, the second action was filed within the balance of the period remaining. It concluded that the issue of whether the filing of the action merely tolled or it actually interrupted the running of the prescriptive period was moot and academic because, in either case, the second action was still filed within the prescriptive period. Consequently, the Fulton case cannot also sustain the thesis of petitioner.

On the foregoing considerations, we are convinced and so hold that the correct interpretations of Article 1155 of the Civil Code are reflected in and furnished by the doctrinal pronouncements in Overseas Bank of Manila and Philippine National Railways Company, not only because they are later in point of time but because the issue is squarely resolved in a decisive and logical manner therein. Petitioner's submission would result in a bifurcated interpretation of Article 1155, aside from the irrational conclusion that a judicial action itself cannot produce the same result on the prescriptive period as a mere extrajudicial demand or an acknowledgment of the debt.

Accordingly, petitioner having failed to adduce any cogent reason or substantial argument to warrant a reconsideration of our resolution of March 24, 1993, the present motion is hereby DENIED with FINALITY.

SO ORDERED.

Narvasa, C.J., (Chairman), and Nocon, JJ., concur.

Padilla, J., on leave.

[1] Justice Segundino G. Chua, ponente; Justices Santiago M. Kapunan and Luis L. Victor, concurring.

[2] Rollo, 24.

[3] 4 SCRA 727 (1962).

[4] 21 SCRA 974 (1967).

[5] 94 SCRA 937 (1979).

[6] 177 SCRA 740 (1989).

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