

THE BACHRACH MOTOR CO., INC., PLAINTIFF AND APPELLEE, VS. ANTONIO LEJANO, DEFENDANT AND APPELLANT.

G. R. No. 10910. January 16, 1959

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is an appeal by defendant Antonio Lejano from the decision of the Court of First Instance of Manila, Judge E. Soriano, presiding, dated March 2, 1956. Inasmuch as the appeal raises only questions of law, it was taken directly to this Tribunal. The appealed decision states the facts as well as the issues involved and we are reproducing the entire decision with approval:

"From a judgment of the Municipal Court of the City of Manila ordering defendant to pay to plaintiff the sum of P1,658.10, with interest thereon at 12% per annum from December 9, 1951, until fully paid, defendant has appealed to this Court.

"From the evidence adduced by plaintiff during the trial de novo, this Court finds the following: On May 22, 1941, plaintiff sold to defendant one new Hash Sedan, as evidenced by Exhibit A. On the same date, defendant signed the promissory note Exhibit B for the total amount of P2, 476.32, whereby said defendant undertook to pay the said amount on the installment basis, the first installment falling due on June 7, 1941, and the last on May 22, 1943, the amount of the various installments being specified in said Exhibit B. Defendant made several payments on his said account with plaintiff, but as of December 8, 1941, there was still due from him in favor of the plaintiff the unpaid balance of P1,658.10, as shown by Exhibits C and D. Plaintiff made written demands on defendant to settle the said obligation, as evidenced by the letters Exhibits E, F and G, but notwithstanding the said demands, defendant failed to make good the said amount, hence the present case.

"Testifying briefly on his own behalf, all that the defendant stated, as far as this Court could grasp the same, is that he did not receive copies of Exhibits E, F and G; that Exhibits A and B do not express the true intention of the parties, and that the car in question was confiscated from him by the Japanese during the occupation. Needless to state, the said testimony does not meet and overcome the evidence for plaintiff to the effect that defendant has not yet fully paid his prewar account with plaintiff resulting from his purchase of the Hash Sedan above referred to. In fairness to the defendant, however, it is the view of this Court that the "said obligation having been contracted prior to the last war, defendant should not be charged interest thereon.

"WHEREFORE, judgment is hereby rendered ordering defendant to pay to plaintiff the sum of P1,658.10, and the costs."

In the Court of First Instance, defendant filed a motion to dismiss the complaint filed by plaintiff on the ground of prescription, claiming that the debt moratorium law did not suspend the running of the period. Said motion was denied by an order dated September 14, 1955. In his answer, defendant reiterated his claim of prescription. He further contended that the municipal court had no jurisdiction over the case inasmuch as the amount involved, which was P1,658.10 plus 25 per cent thereof as attorney's fees, exceeded P2,000.00. In his appeal, defendant reiterates his contention that the municipal court had no jurisdiction to try the case because of the amount

involved and so the Court of First Instance should have dismissed the case. He also insists that the action of plaintiff is barred by the statute of limitations

On the question of jurisdiction, defendant may be right that inasmuch as the complaint before the municipal court prayed for the payment not only of P1,653.10 but also 25 per cent thereof as attorney's fees, the total was beyond the jurisdiction, of said municipal court. However, plaintiff-appellee claims that the 25 per cent of P1,658.10 was deleted from his complaint, presumably, to solve the question of jurisdiction, although the alleged deletion nowhere appears on record. But even assuming that the municipal court had no jurisdiction, on appeal to the Court of First Instance, defendant in his motion to dismiss failed to raise the question of jurisdiction. It is true that in his answer filed after his motion to dismiss had been denied, he alleged as an affirmative defense the lack of jurisdiction of the trial court, but it would appear that he did not urge or press this defense. On the other hand, he and plaintiff not only filed pleadings before said Court of First Instance, but also presented evidence. In other words, they did not object to the trial court exercising its original jurisdiction, which it did under the provisions of section 11, Rule 40 of the Rules of Court, which reads:

"Sec. 11. Lack of Jurisdiction. — A case tried by an inferior court without jurisdiction over the subject-matter shall be dismissed on appeal by the Court of First Instance, But instead of dismissing the case, the Court of First Instance in the exercise of its original jurisdiction, may try the case on the merits if the parties therein file their pleadings and go to the trial without any objection to such jurisdiction."

Consequently, the trial court did not commit error in not dismissing the case as prayed for by defendant, and in exercising its original jurisdiction and deciding the case on its merits.

As to the question of prescription, we find it unnecessary to discuss the same. Suffice it to say that this Tribunal has in a long line of cases repeatedly held that the debt moratorium law suspended the running of the period of prescription.

"The moratorium law suspended the running of the period of prescription¹and the enforcement of the payment of all debts and other monetary obligations payable within the Philippines from March 10, 1945 to July 26, 1948, or a period of three years, four months and sixteen days. (Day et al. vs. Court of First Instance, et al., No. L-6691, April 27, 1954; Montilla vs. Pacific Commercial Co., No. L-8223, December 20, 1955; Manila Motor Co. vs. Flores, 52 Off. Gaz., 5804; Manila Motor Co. vs. Fernandez, 52 Off. Gaz., 6883; Bartolotne vs. Ampil, No. L-8436, August 28, 1956; Rio y Compañia vs. Sandoval, Nos. L-9391-92, November 28, 1956; Pacific Commercial Co. vs. Aquino, No. L-10274, February 27, 1957; Philippine National Bank vs. Aboitiz, et al., No. L-9500, April 11, 1957; and Bachrach Motor Co. vs. Chua Tua Hiam, No. L-9729, April 24, 1957)." (Parsons Hardware Co. vs. San Mauricio Mining-Co., No. L-9584, April 27, 1957).

"The Moratorium Law suspended the creditor's right to sue, and for purposes of prescription the time it was in force must be excluded from the computation of the period." (Philippine National Bank vs. Oseña, et al., January 31, 1958).

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

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., and Endencia JJ., concur.

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