

ALIPIO N. CASILAN AND PURITA GALAGNARA, PLAINTIFFS AND APPELLANTS, VS. SANTIAGO GANGCAYCO, MANUEL GANGCAYCO, RAYMOND TOMASI AND ENRIQUE BASEA, DEFENDANTS AND APPELLEES.

G.R. No. 15208. September 30, 1960

Ponente: BENGZON, J.

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BENGZON, J.:

On April 6, 1950, in the Leyte court of first instance, plaintiffs sued defendants to recover P23,400.00 as damages. On April 17, 1950, defendants answered denying the allegations of the complaint, and setting up a counter-claim of P36,800.00. After hearing the case on the merits, the court rendered judgment on September 5, 1953, requiring plaintiffs to pay "indemnity and damages in the sum of F8,325.00 to defendant Raymond Tomasi; to the defendants Santiago Gangcayco and Manuel Gangcayco, attorneys' fees and expenses of litigation in the sum of P700.00, and to defendant Manuel Gangcayco, damages in the sum of P210.00 with legal interest on all said sums." (Italics supplied.)

On appeal, the Court of Appeals affirmed the judgment in toto on January 27, 1956. And on petition for review, this Court held on August 29, 1958, "we find no error in the appealed decision of the Court of Appeals, and so we affirm the same, with costs." Our decision became final, and on the return of the expediente for execution, the judge issued this order:

"In the writ of execution to be issued in this case, the legal interest to be ordered collected on each of the sums specified in the dispositive portion of this Court's decision dated September 5, 1953, should be computed from the date of said decision; and only one set of costs should be taxed in favor of all the defendants collectively." (Italics supplied.)

Excepting to the order plaintiffs came to this Court. The interest, they contend, should be computed from the time the judgment became final (August 1958) i.e., after confirmation on appeal, and not from September 5, 1953. The plaintiffs, argues their counsel, had a right to appeal so there could be no demand for payment in the meantime, and therefore, they incurred no delay for which they should pay interest during the pendency of their appeal.

The argument overlooks the fact that judicial demand for payment was contained in defendants' answer. The judgment should have required interest from that time.[1] But since it ordered interest without specifying when it shall begin, and the order was affirmed in toto, the question arises, when does interest begin? The court itself says, from September 5, 1953. That is correct: not only from the tenor of its original judgment[2] which was affirmed, but also because sec. 510 of Act No. 190 provides :

"SEC 510. Interest on Judgment Affirmed.—When the Supreme Court shall affirm a judgment of a court below, for the recovery of money, or shall reverse a judgment of a court below, and award a sum of money as debt or damages, it shall direct that interest be added to the original judgment or sum determined to be due, from the date of the former judgment until the date of the final judgment, at the rate of six per cent per annum."

The New Rules of Court did not expressly repeal this provision. Sec. 5 of Rule 53 of the New Rules of Court does not conflict with it.

And in several cases we have, under analogous circumstances, computed legal interest to begin with the decision of the court of first instance, not from the confirmatory judgment of the appellate court. (See *Lim Tuico vs. Cu-Unjieng*, 21 Phil., 493; *Ed. A. Keller vs. Ellerman*, 38 Phil., 514; *Cu-Unjieng vs. Mabalacat Sugar Co.*, 54 Phil., 976.)

"Final judgment was rendered against plaintiff for a certain sum with interest due thereon "until the debt shall have been completely paid." Defendants appealed and judgment was affirmed whereupon plaintiff deposited with the court the sum and interest from the date of the order of execution of the judgment. The court ordered payment of interest from the date of the obligation until the order of execution. Plaintiff appealed. Held: Interest was payable as ordered by the lower court; the appeal of defendants did not stop the running of such interest; plaintiff could have deposited the amount of the judgment when the same was first rendered and stopped the running of interest thereafter." (*Banal vs. Safont and Puig*, 19 Phil., 372, 19 J. F. 386) [Phil. Digest, Vol. 3, pp. 2500-2501.]

Wherefore, the appealed order is affirmed, with costs.

Paras, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

[1] Arts. 1100, 1101, and 1108, Civil Code.

[2]"with legal interest" necessarily means "from this date until payment," unless otherwise indicated.

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