

PABLO R. ANTONIO, JR., PETITIONER, VS. ENGR. EMILIO M. MORALES AS SOLE PROPRIETOR OF E. M. MORALES & ASSOCIATES, RESPONDENT.

G.R. NO. 165552. January 23, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant Petition for Review on Certiorari assailing the Decision[1] of the Court of Appeals dated June 11, 2004 in CA-G.R. SP No. 80001 and its Resolution[2] of September 21, 2004 denying the motion for reconsideration.

Records show that on December 18, 1995, E. M. Morales & Associates filed with the Regional Trial Court (RTC), Branch 56, Makati City a complaint for a sum of money (based upon an oral contract) against Pablo R. Antonio, Jr., petitioner, and Design Consultancy, Inc., docketed as Civil Case No. 95-1796.

Petitioner filed a motion to dismiss the complaint on two grounds: (1) plaintiff's failure to attach to the complaint a certificate of non-forum shopping; and (2) plaintiff's lack of legal capacity to sue, plaintiff being a sole proprietorship.

On September 30, 1996, respondent Engr. Emilio M. Morales, as plaintiff, filed an Amended Complaint, attaching thereto a certificate of non-forum shopping.

The RTC issued an Order admitting the amended complaint and denying petitioner's motion to dismiss. Petitioner then filed a motion for reconsideration but it was denied, prompting him to file with the Court of Appeals a petition for certiorari, docketed as CA-G.R. SP No. 59309, which remained pending for more than six years.

Feeling that the pendency of CA-G.R. SP No. 59309 would be indefinite, respondent filed with the RTC a motion to dismiss his complaint.

On August 1, 2001, the RTC dismissed Civil Case No. 95-1796 without prejudice pursuant to Section 2, Rule 17 of the 1997 Rules of Civil Procedure, as amended.

On August 3, 2001, respondent filed with the Court of Appeals a manifestation that the RTC dismissed without prejudice Civil Case No. 95-1796. However, it was only on August 27, 2002, or after more than one year, that the Court of Appeals issued a Resolution directing petitioner to comment on respondent's manifestation.

On September 17, 2002, petitioner filed his comment.

On June 11, 2004, the Court of Appeals rendered its Decision dismissing his petition in CA-G.R. SP No. 59309.

Meanwhile, on September 23, 2002, respondent filed anew a complaint for the collection of a sum of money, this time with Branch 215 of the Quezon City RTC, docketed as Civil Case No. Q-02-47835.

Forthwith, petitioner filed a motion to dismiss the complaint on the ground of prescription considering that under

Article 1145 of the Civil Code, actions based on oral contracts prescribe in six years. Petitioner maintains that from August 14, 1995, when he received respondent's last letter of demand, to September 23, 2002, when respondent filed Civil Case No. Q-02-47835, more than seven years had elapsed; and that the first case, Civil Case No. 95-1796, did not interrupt the running of the period.

However, the RTC denied petitioner's motion to dismiss and his subsequent motion for reconsideration. Petitioner seasonably filed with the Court of Appeals a petition for certiorari, docketed as CA-G.R. SP No. 80001.

On June 11, 2004, the Court of Appeals promulgated its Decision dismissing the petition in CA-G.R. SP No. 80001. Petitioner filed a motion for reconsideration but was denied in a Resolution dated September 21, 2004.

Hence, the present petition raising the sole issue of whether the Court of Appeals erred in holding that the trial court did not gravely abuse its discretion in denying petitioner's motion to dismiss the complaint by reason of prescription.

The petition lacks merit.

Articles 1139, 1145 and 1155 of the Civil Code provide:

ART. 1139. Actions prescribe by the mere lapse of time fixed by law.

x x x

ART. 1145. The following actions must be commenced within six years:

- (1) Upon an oral-contract
- (2) Upon a quasi-contract.

x x x

ART. 1155. The prescription of actions is interrupted when they are filed before the court, when there is written extra-judicial demand by the creditors, and when there is any written acknowledgement of the debt by the debtor.

In the early case of *US v. Serapio*,^[3] this Court held that under the Civil Code, the prescription of an action refers to the time within which an action must be brought after the right of action has accrued. The prescriptive statutes serve to protect those who are diligent and vigilant, not those who sleep on their rights. The rationale behind the prescription of actions is to prevent fraudulent and stale claims from springing up at great distances of time, thus surprising the parties or their representatives when the facts have become obscure from the lapse of time or the defective memory or death or removal of the witnesses.^[4] Prescription applies even to the most meritorious claims.

Prescription as understood and used in this jurisdiction does not simply mean a mere lapse of time. Rather, there must be a categorical showing that due to plaintiff's negligence, inaction, lack of interest, or intent to abandon a lawful claim or cause of action, no action whatsoever was taken, thus allowing the statute of limitations to bar any subsequent suit.

Petitioner's invocation of prescription is misplaced. We recall that on December 18, 1995, respondent initially filed with the RTC of Makati City Civil Case No. 95-1796. While it was later dismissed without prejudice to his own motion, we note that the dismissal sought was not for the purpose of voluntarily abandoning his claim. On the contrary, respondent's intention was to expedite the enforcement of his rights. Understandably, he felt frustrated at the snail's pace at which his case was moving. As mentioned earlier, CA-G.R. SP No. 59309 remained pending before the Court of Appeals for six (6) long years.

We further observe that respondent acted swiftly after the dismissal of his case without prejudice by the Makati RTC. He immediately filed with the Court of Appeals a manifestation that Civil Case No. 95-1796 was dismissed by the lower court. But the Court of Appeals acted on his manifestation only after one year. This delay, beyond respondent's control, in turn further caused delay in the filing of his new complaint with the Quezon City RTC. Clearly, there was no inaction or lack of interest on his part.

The statute of limitations was devised to operate primarily against those who slept on their rights and not against those desirous to act but could not do so for causes beyond their control.[5] Verily, the Court of Appeals did not err in holding that the RTC, Branch 215, Quezon City did not gravely abuse its discretion when it denied petitioner's motion to dismiss respondent's complaint and ruled that respondent's filing of the complaint in Civil Case No. Q-02-47835 is not barred by prescription.

WHEREFORE, we DENY the petition and AFFIRM the assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 80001. Costs against petitioner.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, and Garcia, JJ., concur.
Azcuna, J., no part. respondent counsel my prior law office.

[1] Rollo, pp. 36-43. Penned by Associate Justice Conrado M. Vasquez, Jr. and concurred in by Associate Justices Rebecca De Guia-Salvador and Jose C. Reyes, Jr.

[2] Ibid., pp. 45-46.

[3] 23 Phil. 584 (1912).

[4] *Sinaon v. Soroñgon*, G.R. No. 59879, May 13, 1985, 136 SCRA 407, 410; *Peñales v. Intermediate Appellate Court*, G.R. No. 73611, October 27, 1986, 145 SCRA 223, 228.

[5] *Republic v. Court of Appeals*, G.R. No. 43179, June 27, 1985, 137 SCRA 220, 228.

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