

**NATIONAL DEVELOPMENT COMPANY, REPRESENTED BY ITS
AGENT, THE PHILIPPINE NATIONAL BANK, PLAINTIFF AND
APPELLANT, VS. JOSE YULO TOBIAS, DEFENDANT AND APPELLEE.**

G. R. No. 17467. April 23, 1963

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal taken by plaintiff, National Development Company, represented by its agent, The Philippine National Bank, from an order of the Court of First Instance of Negros Occidental dismissing plaintiff's complaint upon the ground of prescription of action, without special pronouncement as to costs.

In said complaint, filed on March 22, 1960, plaintiff seeks to recover from defendant, Jose Yulo Tobias, the sum of P6,905.81, plus interest and attorney's fees, under a promissory note of said defendant, dated and issued on May 13, 1946, for the sum of P7,000.00, payable "on demand after date" to the order of said plaintiff. Upon being summoned, the defendant filed a motion to dismiss upon the ground that "the action upon which the complaint is based has prescribed long ago" more than ten (10) years having elapsed since May 13, 1946, when said promissory note was issued and plaintiff's action accrued. Hence, the aforementioned order of dismissal, which plaintiff assails as erroneous upon the theory that the statute of limitations does not run against the plaintiff because the same is an instrumentality of the Government. In support of this view plaintiff cites the case of the Government of the Philippine Island vs. Monte de Piedad (35 Phil., 738).

Plaintiff's pretense is clearly devoid of merit. The case cited in not in points, it having been instituted by the Government of the Philippine Islands. Plaintiff herein is neither the Government of the Republic nor a branch or subdivision thereof. It is true that plaintiff is an instrumentality of such Government, but as this Court has held in the case of Association Cooperativa de Credito Agricola de Miagao vs. Monteclaro (74 Phil., 281), "even the Agricultural and Industrial Bank, which is a government-owned and controlled corporation and which has been created to promote agriculture and industry on a larger scale than agricultural credit cooperative associations, cannot be said to exercise a sovereign function. It is, like all other corporations capitalized by the Government, a business corporation," and, as such, its causes of action are subject to the statute of limitations. To the same effect are the cases of Montedora vs. Cebu Portland Cement Co. (54 Off. Gaz. 4289), Price Stabilization Corp. vs. CIR (54 Off. Gaz. 4472), GSIS vs. Castillo. 98 Phil., 876 (52 Off. Gaz. 4269), and Manila Hotel Employees Association vs. Manila Hotel Co. (73 Phil., 374).

That plaintiff herein does not exercise sovereign powers - and, hence, can not invoke the exemptions thereof-but is an agency for the performance of purely corporate, proprietary or business functions, is apparent from its Organic Act (Commonwealth Act 182, as amended by Commonwealth Act 311) pursuant to section 3 of which it "shall be subject to the provisions of the Corporation Law in so far as they are not inconsistent" with the provisions of said Commonwealth Act "and shall have the general powers mentioned in said" Corporation Law, and, hence, "may engage in commercial, industrial mining, agricultural, and other enterprises which may be

necessary or contributory to the economic development, of the country, or important in the public interest," as well as "acquire, hold, mortgage, and alienate personal and real property in the Philippines or elsewhere; * * make contracts of any kind and description;" and "perform any and all acts which a corporation or natural person is authorized to perform under the laws now existing or which may be enacted hereafter."

In fact, plaintiff was sentenced to pay costs in *Batong bacal vs. National Development Co.* 93 Phil., 182; (49 Off. Gaz. 229), and *National Development Co. vs. CIR*, 106 Phil., 307; (September 30, 1959), despite the fact. that "no costs shall be allowed against the Republic of the Philippines, unless otherwise provided by law," pursuant to Rule 181, Section 1, of the Rules of Court. Wherefore, the order appealed from is hereby affirmed with costs of this instance against plaintiff-appellant.

Bengzon, C. J., Padilla, Bautista Angela, Reyes, J.B.L. Barrera, Paredes, Dizon, Regala, and Makalintal JJ., concur.

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