

CONTINENTAL BANK, PETITIONER-APPELLANT, VS. HON. JOEL P. TIANGCO, PRESIDING JUDGE OF BRANCH XXVIII, COURT OF FIRST INSTANCE OF MANILA, INCOME AND ACCEPTANCE CORPORATION, STAR LI...

G.R. No. 50480. December 14, 1979

Ponente: AQUINO, J.

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AQUINO, J.:

The Court of First Instance of Manila rendered a decision dated September 26, 1967, ordering Income and Acceptance Corporation, Star Life Insurance Corporation and Primitivo E. Domingo to pay solidarily to the Continental Bank the sum of forty-six thousand three hundred pesos and eighty-one centavos (P46,300.81), with twelve percent interest per annum from June 1, 1967 until the principal has been fully paid, plus attorney's fees of three thousand pesos and the costs (Civil Case No. 69703).

That judgment was rendered on the basis of the evidence which was presented before the deputy clerk of court who was commissioned to receive the same after the defendants were declared in default for nonappearance at the pre-trial. As no appeal was interposed from the said judgment, it became final and executory. It was not satisfied.

The sheriff in his return dated August 30, 1968 stated that he served the writ of execution upon the judgment debtor, P.E. Domingo, who manifested that he would settle the case with the bank. After the expiration of the sixty-day period, without the judgment having been satisfied, the sheriff returned the writ to the court.

On March 17, 1977, the bank, "through the Statutory Receiver", filed a complaint also in the Court of First Instance of Manila for the revival of the said judgment (Civil Case No. 107556). It was alleged therein that the judgment debtors (now the private respondents) had made partial payments and that the amount due as of March 15, 1977 was thirty-four thousand six hundred twenty-two pesos and nineteen centavos (P34,622.19) with twelve percent interest a year from March 16, 1977. The bank prayed that the judgment be revived.

The defendants answered the complaint. Then, they filed a motion to dismiss on the grounds that the action for revival of judgment had prescribed and that the plaintiff bank had no cause of action because the judgment sought to be revived is void since it was based on the evidence received by the deputy clerk of court as commissioner.

The motion to dismiss was opposed by the bank. The trial court granted the motion in a minute order which reads: "Considering the allegations contained, the arguments advanced and the doctrine cited in defendants' motion to dismiss as well as those of the opposition filed thereto by the plaintiff, the Court resolves to grant the motion." The plaintiff appealed under Republic Act 5440.

We have admonished the trial courts not to issue a minute order like the one under appeal. A trial court should specify in its order the reasons for the dismissal of the complaint so that when the order is appealed, this Court can readily determine from a casual perusal thereof whether there is a prima facie justification for the dismissal.

The contention that the action for revival of the judgment had prescribed is manifestly devoid of merit. "A judgment may be executed on motion within five (5) years from the date of its entry or from the date it becomes final and executory. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action." (Sec. 6, Rule 39, Rules of Court.) The prescriptive period for enforcing a judgment is ten years (Art. 1144[3], Civil Code).

In this case, the ten-year period for enforcing the judgment had not yet expired when the action for its revival was filed on March 17, 1977 because, as already stated, the judgment was rendered on September 26, 1967. Respondents' contention that between September 26, 1967 and March 17, 1977 a period of ten years, five months and twenty-one days had elapsed is a palpable error.

There can be no doubt that the action herein was filed within ten years from the rendition of the judgment, not to mention the date of the entry thereof, which, although not shown in the record, can be assumed to be much later.

Also erroneous and unmeritorious is respondents' contention that the judgment in question is void and unenforceable because it was based on evidence which was heard by the deputy clerk of court as commissioner. That judgment is valid and enforceable because it was rendered by a court of competent jurisdiction and it was not impaired by extrinsic fraud nor by lack of due process. The trial court acquired jurisdiction over the person of the judgment debtors. They acquiesced in the validity of the judgment when they made partial payments to satisfy it.

The defendants or private respondents did not question in the lower court its delegation to the deputy clerk of court of the duty to receive plaintiff's evidence. There is no showing that they were prejudiced by such a procedure, that the commissioner committed any mistake or abuse of discretion, or that the proceedings were vitiated by collusion and collateral fraud. It is too late at this hour for them to question the reception of plaintiff's evidence by the deputy clerk of court acting as commissioner. (See CCC Insurance Corporation vs. Court of Appeals, L-25920, January 30, 1970, 31 SCRA 264; 2 Moran's Comments on the Rules of Court, 1970 Ed., pp. 159-160 citing Apurillo vs. Garciano, L-23683, July 30, 1969, 28 SCRA 1054; Province of Pangasinan and Soriano vs. Palisoc, 116 Phil. 609, 614. Cf. Lim Tanhu vs. Ramolete, L-40098, August 29, 1975, 66 SCRA 425, 453-4.)

WHEREFORE, the trial court's order of dismissal is reversed and set aside. Costs against the private respondents.

SO ORDERED.

Barredo, (Chairman), Antonio, Concepcion, Jr., Santos, and Abad Santos, JJ., concur.

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