

**PAZ G. ROMUALDEZ, BELEN A. GUECO, ASSISTED BY HER HUSBAND,
JOSE TINSAY, AND CATALINA A. GUECO, ASSISTED BY HER
HUSBAND JOSE SIOPONGCO, PLAINTIFFS-APPELLEES, VS. ANTONIO
P. TIGLA...**

G.R. No. 51151. July 24, 1981

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is an appeal by the Estate of Felisa Tiglao from a decision in Civil Case No. Q-14424 of the Court of First Instance of Rizal which revived a judgment rendered in Civil Case No. Q-5055 also of the Court of First Instance of Rizal.

Originally appealed to the Court of Appeals, that court certified the case to us on the ground that it involves questions of law only.

The relevant facts are the following:

On March 15, 1960, Paz G. Romualdez and others sued Antonio Tiglao for the payment of unpaid rentals for the lease of a hacienda and its sugar quota. Included in the suit were Felisa Tiglao and others who had guaranteed the payment of the rents jointly and severally with Antonio Tiglao. The suit was docketed as Civil Case No. Q-5055 of the Court of First Instance of Rizal. On May 31, 1960, a decision was rendered with the following dispositive portion:

"IN VIEW OF THE FOREGOING, the Court hereby renders judgment in favor of the plaintiffs and against the defendants, by ordering said defendants to pay jointly and severally the plaintiffs the sum of P22,767.17 representing the unpaid rentals on the sugar quota, to pay P5,000.00 as liquidated damages and the sum of P1,000.00 as attorney's fees plus costs."

The judgment was not satisfied notwithstanding a writ of execution to enforce it. Accordingly, on May 18, 1970, Paz G. Romualdez, et al. filed Civil Case No. Q-14424 in the Court of First Instance of Rizal against Antonio Tiglao and his sureties in order to revive the judgment above quoted.

It should be stated that when the suit to revive judgment was filed, Felisa Tiglao had died and her estate was being settled in Special Proc. No. Q-10731 of the Court of First Instance of Rizal. Accordingly, the one who was made defendant was her estate represented by the Special Administratrix Maningning Tiglao-Naguiat. In her Motion to Dismiss, dated October 5, 1970, Answer dated April 5, 1971, and still another Motion to Dismiss, dated September 25, 1973, the administratrix questioned the jurisdiction of the court a quo to entertain the suit to revive judgment. She invoked Sec. 1 of Rule 87 of the Rules of Court that, "No action upon a claim for the recovery of money or debt or interest thereon shall be commenced against the executor or administrator; x x x."

Brushing aside the posture of the administratrix, the court a quo rendered a decision on January 21, 1974, with the following dispositive portion:

"WHEREFORE, for all the foregoing considerations the Court hereby renders judgment in favor of the plaintiffs ordering the revival of the judgment of this court in Civil Case No. 5055, which runs as follows:

'IN VIEW OF THE FOREGOING, the Court hereby renders judgment in favor of the plaintiffs and against the defendants, by ordering the said defendants to pay jointly and severally the plaintiffs the sum of P22,767.17 representing the unpaid rental on the sugar quota, to pay P5,000.00 as liquidated damages and the sum of P1,000.00 as attorney's fees plus costs.'

without pronouncement as to costs."

The Estate of Felisa Tiglao filed a separate appeal which is now before us.

The decision reviving the judgment states: "For the estate of Felisa Tiglao, no evidence was presented, it having been declared in default previously." But as can be gleaned from the facts stated above, the Estate of Felisa Tiglao filed an Answer, dated April 1, 1971, and a second Motion to Dismiss, dated September 25, 1973. The reason for the mistake is that the case was handled by several judges (Judges Lorenzo Relova and Santiago O. Tañada) before it was decided by Judge Augusto L. Valencia. However, the mistake is not fatal for the Estate of Felisa Tiglao did not raise any factual issue in the court below. It raised a question of law only which we now resolve in this appeal.

The appellant argues that the present action is one for the recovery of a sum of money so that it is barred by Sec. 1 of Rule 87 of the Rules of Court and that the remedy of the appellees is to present their claim in Special Proc. No. Q-10731 of the Court of First Instance of Rizal.

This argument is simply answered thus: the original judgment which was rendered on May 31, 1960, has become stale because of its non-execution after the lapse of five years. (Sec. 6, Rule 39 of the Rules of Court.) Accordingly, it cannot be presented against the Estate of Felisa Tiglao unless it is first revived by action. This is precisely why the appellees have instituted the second suit whose object is not to make the Estate of Felisa Tiglao pay the sums of money adjudged in the first judgment but merely to keep alive said judgment so that the sums therein awarded can be presented as claims against the estate in Special Proc. No. Q-10731 of the Court of First Instance of Rizal.

WHEREFORE, finding no error in the judgment insofar as the Estate of Felisa Tiglao is concerned, its appeal is hereby dismissed with costs against the appellant.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., and De Castro, JJ., concur.
Aquino, J., see attached concurrence.

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CONCURRING OPINION

AQUINO, J.:

I concur. Felisa Tiglao died on December 4, 1966. Special Proceeding No. Q-10731 of Branch V of the Court of First Instance of Quezon City, the testamentary proceeding for the settlement of her estate, was filed on January 18, 1967 (p. 3, Appellant's brief).

It is a fact that when the ten-year period for enforcing the judgment of Judge Nicasio Yatco dated May 31, 1960 against the Tiglao defendants was about to expire, there was as yet no notice to creditors in Special Proceeding No. Q-10731 and no regular administrator had been appointed. Hence, the judgment creditors could not file a claim against the testate estate for the amount of the unsatisfied judgment.

The judgment creditors had no alternative but to file an action for revival of judgment to prevent its extinguishment by prescription.

It is true that, as a general rule, "no action upon a claim for the recovery of money or debt or interest thereon shall be commenced against the executor or administrator" because the creditor's remedy is to file the proper claim in the proceeding for the settlement of the deceased debtor's estate within the period fixed in the Statute of Nonclaims (Secs. 2 and 5, Rule 86 and sec. 1, Rule 87, Rules of Court).

But the instant case, because of the singular circumstances recounted above, is an exception to that general rule.

At any rate, the judgment creditors filed on August 20, 1971 in the testate proceeding already mentioned the corresponding claim (p. 44, Record on Appeal).

The lower court's judgment in this case, which is being assailed on appeal, is simply a confirmation of that claim which was based on Judge Yatco's 1960 judgment. The con-firmation was necessary to forestall extinctive prescription of the judgment.

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