

PHILIPPINE NATIONAL RAILWAYS, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, LABOR ARBITER CEFERINA DIOSANA, AND RODOLFO CALDO, RESPONDENTS.

G.R. No. 81231. September 19, 1989

Ponente: NARVASA, J.

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NARVASA, J.:

Article 1155 of the Civil Code provides that the "prescription of actions is interrupted" inter alia, "when there is any written acknowledgment of the debt by the debtor." This simply means that the period of prescription, when interrupted by such a written acknowledgment, begins to run anew; and whatever time of limitation might have already elapsed from the accrual of the cause of action is thereby negated and rendered inefficacious. It does not mean that prescription will not run any more. But this was how the public respondents construed and applied the cited provision in the case at bar. They thus incurred in fundamental, grave error justifying the issuance of the correcting writ of certiorari.

More than sixteen (16) years ago, on April 16, 1973 to be precise, the Court of Industrial Relations promulgated judgment in an unfair labor practice case instituted by Rodolfo Caldo and two (2) others against the Philippine National Railways and its Personnel Manager,¹ declaring the respondents guilty as charged and ordering them "to reinstate the individual complainants to their former work as permanent employees pursuant to the same Budgets of respondent PNR, with full back wages from the time of their dismissal until actual reinstatement is effected, without loss of seniority and other benefits appertaining thereto."²

The judgment became final and was ordered executed by Order dated September 3, 1974.¹ Pursuant to a Memorandum issued by the PNR's Board of directors dated December 26, 1974² -- approving the reinstatement of the complainants and payment to them of back wages in accordance with the CIR decision -- Caldo and the two (2) other complainants were paid their back salaries in full, i.e., up to April 30, 1974.³ However, only Caldo's co-complainants were reinstated. Caldo was not. According to him, over the next twelve (12) years, he repeatedly demanded that he be re-employed, to no avail.⁴

On March 31, 1986, Caldo filed with the Labor Arbiters' Office (National Capital Region) a motion for reconstitution and for an alias writ of execution.⁵ The motion averred, in substance, (1) that the records of his case were among those destroyed during "the fire that razed the office of the National Labor Relations Commission (NLRC) including its Records Office," (2) that he (Caldo) was entitled to additional back wages from May 1, 1974 up to March 13, 1986 on which latter date he had allegedly made known his "non-interest to be reinstated;" and (3) since in the premises his reinstatement seemed impossible, he should be granted "separation pay for one (1) month for every year of service from March 16, 1960 up to April 30, 1974."⁶ The motion was granted and, on the basis of computations made by an NLRC analyst, a writ of execution issued on July 15, 1986.

Thereafter, various technical issues, as the NLRC was to eventually point out in its Resolution of October 27, 1987⁷ --

" ** were raised by appellants which resulted in the referral of this case to the NLRC-NCR for further deliberation and/or hearings. While this case was pending thereat, appellee filed a Motion for an Alias Writ of Execution on December 23, 1986. This Motion was granted by Labor Arbiter Diosana, and the corresponding alias Writ of Execution was issued on January 5, 1987.

On January 27, 1987, appellant PNR filed an Urgent Motion to Quash the alias Writ of Execution on the ground that the decision in this case is more than ten (10) years old and therefore, could not and should not be enforced by a simple motion, and that the Writ of Execution ordering payment of P74,826.00 representing back wages from ten (10) years ago up to the present is against the decision of the Supreme Court. Appellee filed an Opposition thereto arguing inter alia, that if there was delay in the execution of judgment, it was because in December 1983, the records of this case were among those burned in the fire that razed the NLRC Offices. PNR filed a Reply to this Opposition."

In a Decision rendered on May 20, 1987, the Labor Arbiter overruled PNR's motion to quash and ordered payment of back wages to Caldo, but "limited to three (3) years without qualification or deductions and without reinstatement."¹ She justified her rejection of PNR's theory that Caldo's motion for execution was time-barred in the following manner:²

"Rule 39, Section 6 relied upon by respondent PNR in its motion to quash writ of execution states that judgment may be executed on motion within five (5) years from the date of 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.

The statute of limitations, Art. 1155 of Civil Code, in the matter of prescription of action provides that the prescription of actions is interrupted when they are filed before the Court, when there is a written extra-judicial demand and when there is a written acknowledgment. The statute of limitations which, according to Section 6, Rule 39, is said to bar the filing of actions refers to Art. 1155 just cited. For while under Art. 1144 of the Civil Code, the right of complainant Caldo to commence action to enforce the decision of 1973 commenced five (5) years thereafter, that is on or about April 16, 1978 prescription of the right of Rodolfo Caldo to enforce the decision by mere motion did not start to run because of the written acknowledgment by PNR.

" * * * * Thus, following Art. 1155 of the Civil Code, when respondent PNR and the board of directors of PNR acknowledged through the resolution of its debt and obligation to complainant Caldo, the prescription of the right of complainant Caldo to seek the execution of the April 16, 1973 decision was stopped. Hence, the position of respondent PNR is not well taken."

The Arbiter's decision was affirmed by the NLRC in its own Resolution promulgated on October 27, 1989.³ It declared, citing "a well-known and respected commentator," that "acknowledgment of a debt that suspends the prescriptive period need not be express so long as it is in writing," and PNR's failure "to seasonably invoke the issue of prescription, although it had sufficient opportunity to do so, constitutes a waiver of the same." The Commission subsequently denied PNR's motion for reconsideration dated November 26, 1987.

Article 1144 of the Civil Code provides that an action "upon a judgment," i.e., to execute a final and executory judgment, "must be brought within ten years from the time the right of action accrues." However, by virtue of the Rules of Court, the enforcement of a judgment does not entail an action, in the sense of an ordinary suit in a court of justice (Sec. 1, Rule 2), a motion being sufficient if execution is sought within the first five years. This is made clear by Section 6, Rule 39:

"Sec. 6. Execution by motion or by independent action. -- 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."

In this case, it is clear that the judgment of the Court of Industrial Relations had become final and executory at least as of September 3, 1974.¹ It could have been executed by motion within five (5) years. It was not. It could have been enforced by an independent action within the next five (5) years (or within ten (10) years from the time it became final). It was not. Therefore, the right of action to enforce the judgment had prescribed by the time that Caldo filed his "Motion for Reconstitution of the Record of the Case and Issuance of Alias Writ of Execution" on April 7, 1986.² Indeed, even if the motion had been filed within the second five-year period, it would still have been inefficacious since execution by motion was no longer possible then, an independent action being needful for the purpose. And even if the ten-year period of limitation were to be reckoned from December 26, 1974, the day when the PNR Board of Directors, acknowledging the company's obligation under the CIR judgment, ordered reinstatement and payment of back salaries to Caldo and his two (2) co-complainants, the prescriptive period would still have to be regarded as expired.

The theory advocated by the respondents, that the resolution of the PNR Board of Directors of December 26, 1974, considered as a "written acknowledgment of the debt by the debtor" within the meaning of Article 1155 of the Civil Code, did not merely interrupt and renew the prescription of the right to execute the judgment but caused it to stop completely, placing it, as it were, in an indefinite state of suspended animation, is fallacious. The effect of the interruption spoken of in Article 1155 is to renew the obligation, to make prescription run again from the date of the interruption and not, to repeat, to cause it to stop running altogether.³

The destruction by fire of the records of CIR Case No. 5414-ULP, which allegedly occurred in December, 1983, cannot be regarded as having interrupted said period, for it obviously did not prevent Caldo from attempting to reconstitute the records and instituting the action before the expiry of the period of ten years from finality of the judgment rendered therein. Hence, Article 1154, declaring that the "period during which the obligee was prevented by a fortuitous event from enforcing his right is not reckoned against him," is inapplicable.

The Court is thus constrained to pronounce Rodolfo Caldo's attempt to execute the judgment in CIR Case No. 5414-ULP, by the filing of a motion to this effect (after reconstitution of the records), to be ineffectual not only because it was time-barred but also because, even assuming the contrary, execution could not longer be had by motion but by independent action.

WHEREFORE, the petition for certiorari is GRANTED, and the Resolution of the respondent Commission dated October 27, 1987 and the Decision of Labor Arbiter Ceferina Diosana dated May 20, 1987 thereby affirmed, are NULLIFIED AND SET ASIDE. No pronouncement as to costs.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

1 Docketed as Case No. 5414-ULP

2 Rollo, pp. 17-18. The decision was written by Hon. Alberto S. Veloso, Associate Judge

1 Id., p. 19

2 Id., p. 20; Annex D, Petition

3 Id., p. 4

4 Id., p. 73

5 The motion was drawn up and presented by the Chief, Legal Service and a Senior Legal Officer of the "LEGALSERVICE, Legal Assistance & Counselling division, MOLE."

6 Id., pp. 21-22

7 Id., pp. 42 et seq.

1 Id., pp. 27-35

2 Id., pp. 32-33; emphasis supplied

3 Id., pp. 42-48 (see footnote 8, supra)

1 See footnote 1, p. 2, supra

2 Rollo, p. 21

3 SEE *Overseas Bank of Manila v. Geraldez*, 94 SCRA 937, cited in Caguioa, *Comments and Cases on Civil Law*, 2d Rev. Ed., Vol. IV, pp. 38, 41-42; also, Tolentino, *Civil Code of the Philippines*, 1985 ed., Vol. IV, p. 50, citing *Buard v. Lemee*, 12 Rob. 243

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