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[G.R. No. 1962. October 12, 1905]

**JOSE PINEDA ET AL., PLAINTIFFS AND APPELLEES, VS. GABINO GASATAYA,
DEFENDANT AND APPELLANT.**

D E C I S I O N

CARSON, J.:

There was no motion for a new trial in this case, hence the findings of fact in the decision of the trial court are accepted as correct.

Gabino Gasataya, the defendant, entered into a written agreement with one Crisanto Pineda, deceased, father of the plaintiffs, whereby Gasataya promised to pay Pineda the sum of 1,740 pesos and 14 centimos on or before the 1st day of April, 1887, with interest from that date at the rate of 20 per cent per annum.

Judgment for principal and interest was rendered in favor of the plaintiffs, and from this judgment defendant appeals, assigning as error the failure of the trial court to find that the right of action had prescribed under the provisions of article 1964 of the Civil Code.

Article 1939 of that code is as follows:

“Prescription which began to run before the publication of this code shall be governed by the prior laws; but if, after this code became operative, all the time required in the same for prescription has elapsed, it shall be effectual, even if according to said prior laws a longer period of time may be required.”

This is a personal action for the recovery of money, and such

actions prescribe in twenty years from the date when the cause of action accrues under the laws in force prior to the publication of the Civil Code, and in fifteen years under the provisions of article 1964 of that code. (Law 63 of Toro, law 5, title 8, book 11 of the *Novisima Recopilacion*.)

The cause of action in this case accrued on the 1st day of April, 1887, and the Civil Code did not become operative until the 8th day of December, 1889; therefore on the 19th day of August, 1902, when the complaint was filed, there had not elapsed the twenty-year period of prescription of the old law, counting from the date when the cause of action accrued, nor the fifteen-year period of prescription of the new law, counting from the date when the Civil Code became operative, and we are of opinion that the defendant's claim of prescription can not be sustained.

The judgment of the trial court is affirmed with the costs of this instance against the appellant, and at the expiration of twenty days judgment will be entered in accordance herewith and the case remanded to the court below in order that the judge may proceed in accordance with law. So ordered.

Arellano, C. J., Torres, Mapa, and Johnson, JJ., concur.
Willard, J., did not sit in this case.