Supreme Court E-Library

WHEREFORE, THE DECISION OF THE RESPONDENT COMMISSION IS HEREBY REVERSED AND SET ASIDE AND RESPONDENT EMPLOYER IS HEREBY ORDERED TO PAY.

1. PETITIONER.
   - A. THE AMOUNT OF SIX THOUSAND (₱6,000.00) PESOS AS DISABILITY BENEFITS;
   - B. HIS MEDICAL EXPENSES PROPERLY SUPPORTED BY RECEIPTS; AND
   - C. ATTORNEY'S FEES EQUIVALENT TO FIVE (5) PERCENT* OF THE TOTAL AWARD; AND.

2. THE SUCCESSOR OF THE DEFUNCT RESPONDENT COMMISSION, ADMINISTRATIVE FEES.

SO ORDERED.

Teehankee (Chairman), Fernandez, Guerrero, De Castro, and *Melencio-Herrera, JJ.*, concur.

SECOND DIVISION

[G.R. No. L-46541. December 28, 1979]

THE OVERSEAS BANK OF MANILA, *petitioner-appellant, vs.* **HON. AMBROSIO M. GERALDEZ, Presiding Judge of Branch I, Court of First Instance of Manila, TEODOSIO VALENTON and ANDRES A. JUAN,** *respondents-appellees.*

---

* No increase in the amount becasuse petitioner was not represented by counsel in this appeal.

Supreme Court E-Library

SYLLABUS

CIVIL LAW; CIVIL CODE; PRESCRIPTION OF ACTIONS; INTERRUPTION OF THE PRESCRIPTIVE PERIOD BY MEANS OF EXTRAJUDICIAL DEMAND, EXPLAINED.— The interruption of the prescriptive period by written extrajudicial demand means that the said period would commence anew from the receipt of the demand. That is the correct meaning of interruption as distinguished from mere suspension or tolling of the prescriptive period.

D E C I S I O N

AQUINO, *J.*:

The Overseas Bank of Manila appealed under Republic Act No. 5440 from the orders of the Court of First Instance of Manila, dated January 4 and February 9, 1977, dismissing, on the ground of prescription, its complaint against Teodosio Valenton and Andres A. Juan for the recovery of the sum of one hundred fifty thousand pesos plus twelve percent interest *per annum* from February 17, 1966 and ten percent of the amount due as attorney's fees (Civil Case No. 105037).

The allegations in the complaint dated October 15, 1976, which were admitted hypothetically by Valenton and Juan, are that on February 16, 1966 they obtained from the bank a credit accommodation of ₱150,000, which was secured by a chattel mortgage, and that written extrajudicial demands dated February 9, March 1 and 27, 1968, November 13 and December 8, 1975 and February 7 and August 27, 1976 were made upon the debtors but they refused to pay on the ground that their obligation was assumed by a third party. The bank alleged that the supposed assumption of obligation was made without its consent.

In dismissing the complaint the trial court reasoned out that, because the bank's cause of action accrued on February 16, 1966 (the date of the manager's check for ₱150,000 issued by the plaintiff bank to the Republic Bank) and as the complaint

Supreme Court E-Library

was filed on October 22, 1976 or more than ten years from the accrual of the cause of action, the complaint was barred by the statute of limitations.

As to the interruption of the ten-year period by the written extrajudicial demands, the trial court held that a demand letter tolls the prescriptive period only for the period of time indicated in the letter within which payment should be made and prescription commences to run again after the expiration of that period and no payment is made.

The trial court observed that, because in the demand letters no period of payment was indicated, that would mean that payment should be made within *one day* and, therefore, the six demand letters interrupted the prescriptive period for six days only. (The trial court noted that the seventh demand letter dated August 27, 1976 was sent when the ten-year prescriptive period had allegedly expired.).

The lower court ruled that the action, which should have been filed within ten years expiring on February 15, 1976, was extended for *six days only* or up to February 21, 1976, and consequently, according to its ratiocination, the action was filed out of time on October 22, 1976.

The issue is as to the effect of the bank's demand letters on the prescriptive period or whether the action had already prescribed.

We hold that the lower court erred in holding that each of the demand letters suspended the prescriptive period for one day only. The interruption of the prescriptive period by written extrajudicial demand means that the said period would commence anew from the receipt of the demand. That is the correct meaning of interruption as distinguished from mere suspension or tolling of the prescriptive period.

An action upon a written contract must be brought within ten years from the time the right of action accrues (Art. 1144[1], Civil Code). "The prescription of actions is interrupted when they are filed before the court, when there is a written

Supreme Court E-Library

extrajudicial demand by the creditors, and when there is any written acknowledgment of the debt by the debtor" (Art. 1155, *Ibid*, applied in *Gonzalo Puyat & Sons, Inc. vs. City of Manila*, 117 Phil. 985, 993; *Philippine National Bank vs. Fernandez*, L-20086, July 10, 1967, 20 SCRA 645, 648; *Harden vs. Harden*, L-22174, July 21, 1967, 20 SCRA 706, 711).

Interruption of the prescription of actions by means of a written extrajudicial demand by the creditor is a rule of civil law origin. Article 1973 of the old Civil Code, from which article 1155 was taken, provides that "*la prescripciòn de las acciones se interrumpe por su ejercicio ante los Tribunales, por reclamaciòn extrajudicial del acreedor y por cualquier acto de reconocimiento de la deuda por el deudor.*" Article 1155 specifies that the extrajudicial demand and the acknowledgment should be in writing.

A written extrajudicial demand wipes out the period that has already elapsed and starts anew the prescriptive period. Giorgi says: "*La interrupciòn difiere de la suspensiòn porque borra el tiempo transcurrido anteriormente y obliga a la prescripciòn a comenzar de nuevo*" (9 *Teoria de las Obligaciones*, 2nd Ed., p. 222). "*La interrupciòn x x x quita toda eficacia al tiempo pasado y abre camino a un còmputo totalmente nuevo, que parte del ùltimo momento del acto interruptivo, precisamente, como si en aquel momento y no antes hubiese nacido el crédito*" (8 *Giorgi, Ibid*, pp. 390-2).

The same view is entertained by Manresa who, in speaking of interruption of prescription by means of a judicial action, says: "*La interrupciòn de la prescripciòn extintiva se produce eficazmente desde luego con la presentaciòn o interposiciòn de la demanda o con cualquier otro acto en que sea ejercitada la acciòn que hubiera de ser prescrita en otro caso, y en su virtud habrà de empezar a contarse de nueuo el término cuando cesen los efectos de dicho ejercicio, ya por abandono o desistimiento voluntario del actor, ya por caducidad de la instancia, ya por sentencia recaida en el juicio, sin que pueda acumularse en ningùn caso el tiempo anterior a la interrupciòn al que transcurriere después de ella.*" (12

Supreme Court E-Library

Codigo Civil, 5th Ed., p. 955. See 32 *Codigo Civil, Quintus Mucius Scaevola*, Vol. II, p. 991 re "*El comienzo de un nuevo plazo.*")

Under article 1973, it was held that if the action for the collection of a sum of money accrued on August 31, 1897 and there were written extrajudicial demands by the creditor in 1906, 1907 and 1910, the fifteen-year period for enforcing that kind of personal action had not elapsed when the action was filed on July 18, 1913 (*Marella vs. Agoncillo*, 44 Phil. 844, 854-5).

That same view as to the meaning of interruption was adopted in *Florendo vs. Organo*, 90 Phil. 483, 488, where it ruled that the interruption of the ten-year prescriptive period through a judicial demand means that "the full period of prescription commenced to run anew upon the cessation of the suspension." "*When prescription is interrupted by a judicial demand, the full time for the prescription must be reckoned from the cessation of the interruption*" (*Spring vs. Barr*, 120 So. 256 cited in 54 C.J.S. 293, note 27). That rule was followed in *Nator and Talon vs. CIR*, 114 Phil. 661, *Sagucio vs. Bulos*, 115 Phil. 786 and *Fulton Insurance Co. vs. Manila Railroad Company*, L-24263, November 18, 1967, 21 SCRA 974, 981.

In the aforecited case of *Spring vs. Barr*, which was decided under the Civil Code of Louisiana, the one-year prescriptive period was interrupted by the filing of an action in July, 1923. The action was terminated on March 2, 1926 after the plaintiff was nonsuited. On June 10, 1926, the plaintiff renewed the action. It was held that the first case interrupted the one-year period and after its termination, the one-year period started to run again from March 2. The second suit, filed on June 10, 1926, was filed on time.

In the *Florendo* case, a judgment for support against the husband and in favor of the wife was rendered by this Court on March 4, 1935 (*Organo vs. Florendo*, 61 Phil. 1028, unpublished). In 1943, in an action for divorce filed by the husband against the wife, the latter filed a counterclaim for the payment of the unpaid installments of support decreed in the 1935 judgment. Those installments dated as far back as February

Supreme Court E-Library

1, 1932, having been fixed in an earlier judgment dated September 8, 1909.

It was held that each monthly installment prescribed in ten years but the prescriptive period was interrupted by the filing of the action which culminated in the 1935 judgment already mentioned. The ten-year period commenced to run anew from March 4, 1935 when the said judgment was rendered on 1943, when the counterclaim for support was filed in the divorce suit, the said ten-year period had not yet completely run out. Hence, the counterclaim for support was not barred by prescription.

Interruption of the prescriptive period as meaning renewal of the original term seems to be the basis of the ruling in *Ramos vs. Condez*, L-22072, August 30, 1967, 20 SCRA 1146, 1151. In that case the cause of action accrued on June 25, *1952*. There was a written acknowledgment by the vendors on November 10, *1956* of the validity of the deed of sale.

It was held that the vendees' action against the vendors on the basis of the said deed of sale, which action was filed on May 22, *1963*, had not prescribed because the ten-year prescriptive period was interrupted on November 10, *1956*. (See *Mina vs. Court of Appeals*, 97 Phil. 590, 593; *Herrera vs. Auditor General*, 102 Phil. 875; *Collector of Internal Revenue vs. Solano*, 104 Phil. 1050 and *Talens vs. M. Chuakay & Co.*, 104 Phil. 1047 as to renewal of obligation by means of written acknowledgment.)

In *National Marketing Corporation vs. Marquez*, L-25553, January 31, 1969, 26 SCRA 722, it appears that Gabino Marquez executed on June 24, 1950 a promissory note wherein he bound himself to pay to the Namarco ₱12,000 in installments within the one-year period starting on June 24, 1951 and ending on June 25, 1952. After making partial payments on July 7, 1951 and February 23, 1952, Marquez defaulted.

His total obligation, including interest, as of October 31, 1964, amounted to ₱19,990.91. Written demands for the payment of the obligation were made upon Marquez and his surety on March

Supreme Court E-Library

22, 1956, February 16, 1963, June 10, September 18 and October 13, 1964. Marquez did not make any further payment.

The Namarco sued Marquez and his surety on December 16, 1964. They contended that the action had prescribed because the ten-year period for suing on the note expired on June 25, 1962. That contention was not sustained. It was held that the prescriptive period was interrupted by the written demands, copies of which were furnished the surety.

In view of the foregoing considerations, the lower court's order of dismissal is reversed and set aside. It is directed to conduct further proceedings in the case. Costs against private respondents-appellees.

SO ORDERED.

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

Abad Santos, J., is abroad.

SECOND DIVISION

[G.R. No. L-46833. December 28, 1979]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **GAUDENCIO SARMIENTO,** *defendant-appellant.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; PROOF BEYOND REASONABLE DOUBT; DEFINED.— A careful study of the evidence, however, discloses that the proof adduced is of such character that the stage of moral certainty as to the guilt of the accused had been reached. Accordingly, with modification as to the damages awarded, we affirm.