said affiants without assuming that Ong Ing had pleaded guilty of, and is willingly serving sentence for, a crime he had not committed, the allegedly newly discovered evidence is, to our mind, insufficient to effect the evidence for the prosecution, or even to create a reasonable doubt on appellants' guilt. Moreover, as we said in case G. R. No. L-5849, entitled "People vs. Buluran," decided May 24, 1954:

"x x x for some time now this Court has been receiving, in connections with criminal cases pending before it, a number of motions for new trial, similar to the one under consideration, based upon affidavits of prisoners — either serving sentences (like Torio and Lao) or merely under preventive detention, pending final disposition of the charges against them — who, in a sudden display of concern for the dictates of their conscience — to which they consistently turned deaf ears in the past — assume responsibility for crimes of which others have been found guilty by competent courts. Although one might, at first, be impressed by said affidavits — particularly if resort thereto had not become so frequent as to be no longer an uncommon occurrence — it is not difficult, on second thought, to realize how desperate men — such as those already adverted to — could be induced, or could even offer, to make such affidavits, for a monetary consideration, which would be of some help to the usually needy family of the affiants. At any rate, the risks they assume thereby are, in many cases, purely theoretical, not only because of the possibility, if not probability, of establishing (in connection with the crime for which responsibility is assumed) a legitimate *alibi* — in some cases it may be proven positively that the affiants could not have committed said offenses, because they were actually confined in prison at the time of the occurrence — but, also, because the evidence already introduced by the prosecution may be too strong to be offset by a reproduction on the witness stand of the contents of said affidavits."

Wherefore, the decision appealed from is hereby affirmed, the same being in accordance with the facts and the law, with costs against the appellants.

IT IS SO ORDERED.

Paras, C.J., and *Pablo, J.*, concur.

XII

S. N. Picornell & Co., Plaintiff-Appellee, vs. Jose M. Cordova, Defendant-Appellant, G. R. No. L-6338, August 11, 1954, *J. B. L. Reyes, J.*

1. JUDGMENTS; WHEN JUDGMENT BECOMES FINAL; PERIOD OF LIMITATIONS BEGINS FROM DATE OF ENTRY OF FINAL JUDGMENT. — An appealed judgment of a Court of First Instance in an original prewar case does not become final until it is affirmed by the Court of Appeals, precisely because of the appeal interposed therein; hence the period of limitation does not begin to run until after the Court of Appeals denies the motion to reconsider and final judgment is entered (old Civil Code Art. 1971; new Civil Code Art. 1152).

2. ACTIONS; ACTION TO REVIVE JUDGMENT, WHEN BARRED BY PERIOD OF LIMITATIONS. — In this case, from the date the final judgment was entered until the present proceedings were commenced on January 16, 1950, less than ten years have elapsed, so that the action to revive the judgment has not yet become barred (sec. 43, Act 190; 31 Am. Jur. p. 486).

3. ID.; DEFENSES; MORATORIUM ACT, NO LONGER A DEFENSE. — Republic Act No. 342, known as the Moratorium Act, having been declared unconstitutional, by this Court in Rutter vs. Esteban (49 Off. Gaz., No. 5, p. 1807), it may no longer be invoked as a defense.

Fulgencio Vega for defendant and appellant.

Ross, Selph, Carrascoso & Janda and *Delfin L. Gonzales* for plaintiff and appellee.

DECISION

REYES, J. B. L., *J.*:

This is an appeal from the judgment rendered on November 15, 1950, by the Court of First Instance of Manila in its Civil Case No. 10115, reviving a prewar judgment (Civil Case No. 51265) against the defendant-appellant José M. Cordova and sentencing him to pay the plaintiff-appellee the sum of ₱12,060.63, plus interest thereon at the legal rate from May 27, 1941, until full payment; with the proviso that the judgment shall not be enforced until the expiration of the moratorium period fixed by Republic Act 342.

The material facts are as follows: In Civil Case No. 51265 of the Court of First Instance of Manila, the appellant José M. Cordova was sentenced on March 4, 1939, to pay the firm of Hair & Picornell the amount of ₱12,715.41 plus interest at the legal rate from May 4, 1937 and costs (Exh. B). Cordova appealed to the Court of Appeals, where the decision of the Court of First Instance was affirmed on December 27, 1940 (CA-GR No. 5471) (Exh. C). A motion for reconsideration was denied on February 7, 1941, and the parties were notified thereof on February 11, 1941 (Exh. D). Thereafter, the judgment became final and executory. Execution was issued; several properties of the defendant were levied upon and sold, and the proceeds applied in partial satisfaction of the judgment, but there remained an unpaid balance of ₱12,060.63 (Exh. E, F, G).

Subsequently, the interest of Hair & Picornell in the judgment was assigned to appellee S. W. Picornell & Co. (Exh. H). The latter, on January 16, 1950, commenced the present action (No. 10115) to revive the judgment in case No. 51265; but Cordova defended on two grounds: (1) that the action had prescribed; and (2) that the action against him was not maintainable in view of the provisions of sec. 2, of Republic Act No. 342, since he (Cordova) had filed a claim with the Philippine War Damage Commission, bearing No. 978113 (Exh. I). Both defenses were disallowed by the Court of First Instance, which rendered judgment as described in the first paragraph of this decision. Cordova duly appealed to the Court of Appeals, but the latter certified the case to this Court, as involving only questions of law.

Clearly, the appeal is without merit. The judgment of the Court of First Instance in the original prewar case, No. 51265, did not become final until it was affirmed by the Court of Appeals, precisely because of the appeal interposed by appellant Cordova; hence the period of limitation did not begin to run until final judgment was entered, after the Court of Appeals had denied Cordova's motion to reconsider on February 7, 1941 (old Civil Code Art. 1971; new Civil Code Art. 1152). From the latter date until the present proceedings were commenced on January 16, 1950, less than ten years have elapsed, so that the action to revive the judgment has not yet become barred (Sec. 43, Act 190; 31 Am. Jur. s. 846).

As to the defense based on the Moratorium Act, R. A. No. 342, our decision in Rutter vs. Esteban (1953), 49 O. G. (No. 5) p. 1807, declaring the continued operation of said Act to be unconstitutional, is conclusive, that it may no longer be invoked as a defense.

Wherefore, the decision appealed from is affirmed, except as to the proviso suspending execution of the judgment until eight years after the settlement of appellant's war damage claim. Said condtion is hereby annulled and set aside, in accordance with our ruling in the Rutter case.

Paras, Pablo, Bengzon, Padilla, Montemayor, Alex Reyes, Jugo, Bautista Angelo, Labrador and *Concepcion, J.J.*, concur.

XIII

Brigido Lobrin, Plaintiff and Appellee, vs. Singer Sewing Machine Company, Defendant and Appellant, No. 5751, *November* 6, 1940, *Tuason, J.*

WORKMEN'S COMPENSATION ACT, SECTION 6; INTERPRETATION; INJURED EMPLOYEE CANNOT RECOVER