

## FIRST DIVISION

[ G.R. No. 136500, December 03, 1999 ]

**CONRADO R. ISIDRO, PETITIONER, VS. NISSAN MOTOR PHILIPPINES, INC., RESPONDENT.**

### D E C I S I O N

**PARDO, J.:**

The case before the Court is an appeal *via* certiorari from the orders<sup>[1]</sup> of the Regional Trial Court, Branch 81, Quezon City<sup>[2]</sup> dismissing the complaint below on the ground that the action has prescribed.

The facts are as follows:

On December 21, 1995, petitioner bought from respondent a brand new Nissan Sentra with an express manufacturer's warranty against hidden defects for a period of 24 months or 50,000 kilometers, whichever comes first.<sup>[3]</sup>

On August 31, 1998, or two years and nine months after delivery of the car, petitioner filed with the Regional Trial Court, Quezon City, assigned to Branch 81, a complaint against respondent for breach of warranty.<sup>[4]</sup>

On October 7, 1998, respondent filed with the trial court a motion to dismiss the complaint alleging that petitioner's cause of action is barred by the statute of limitation under Article 1571 of the Civil Code.<sup>[5]</sup>

On October 9, 1998, petitioner filed with the trial court an opposition to the motion to dismiss pointing out that Article 1571 applies only to implied warranties and not to express warranty.<sup>[6]</sup>

On November 11, 1998, the trial court issued an order dismissing the complaint based on the ground that plaintiff's cause of action has prescribed since the complaint was filed more than two years after delivery of the car which is the period during which respondent expressly warranted that it would repair/replace defective parts of the car.<sup>[7]</sup>

On November 20, 1998, petitioner filed with the trial court a motion for reconsideration of the dismissal stating that the prescribed period of warranty is four years in case of rescission and ten years in case of specific performance.<sup>[8]</sup>

On December 2, 1998, respondent filed with the trial court an opposition to the motion for reconsideration.<sup>[9]</sup>