

MANUEL SUAREZ, PLAINTIFF AND APPELLANT, VS. THE MUNICIPALITY OF NAUJAN, ORIENTAL MINDORO AND MANUEL MARCOS, THE MAYOR THEREOF; THE MUNICIPALITY OP POLA, SAME PROVINCE AND PEDRO ...

G.R. No. L-22282. November 21, 1966

Ponente: REYES, J.B.L., J.

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

Direct appeal, on pure question of law, from an order of the Court of First Instance of Manila, in its Civil Case No. 54069, sustaining defendants' motion to dismiss plaintiff's complaint for declaratory relief, on the ground of res judicata, and from a later order of the same court denying plaintiff's motion to reconsider said order of dismissal.

The antecedent facts before the filing of the present case are:

On 25 August 1952, herein plaintiff Manuel Suarez, as petitioner, filed a prohibition case with preliminary injunction against respondents municipality of Naujan, province Oriental Mindoro, and its Municipal Mayor and Treasurer, in the Court of First Instance of said province, docketed therein as its Special Civil Case No. R-1054. Said petition substantially recites that, in accordance with Pola's Municipal Ordinance No. 16, series of 1961, petitioner Suarez entered, on 14 October 1961, into a lease contract with said municipality of Pola, province of Oriental Mindoro, through its Mayor, for the exclusive privilege of erecting fish corals and catching fish in that part of Naujan Lake within Pola's territorial jurisdiction; that said lease contract and ordinance, upon endorsement by the Assistant Director of the Bureau of Fisheries that he had no objection to the approval thereof, were approved by the Secretary of Agriculture and Natural Resources; that respondent Mayor of Naujan and his police force, claiming that the municipality of Naujan has exclusive and sole territorial jurisdiction over the entire Naujan Lake, with threat of use of force, stopped the exercise of his fishery rights and operation under said lease contract; that petitioner protested said actuation of respondent Naujan Mayor to the Office of the President of the Philippines, which referred the matter to the Provincial Board of Oriental Mindoro; but the latter, upon joint motion and agreement of the parties, dismissed said protest to await the outcome of respondent's pending appeal to the Office of the President of said Board's resolution No. 151, series of 1957, involving the territorial dispute over Naujan Lake between the municipalities of Naujan and Pola; that the Office of the President, on 18 April 1962, decided in favor of Pola town and ordered respondent Naujan Mayor to refrain from interfering with the exercise of petitioner's fishery rights under said lease contract that said decision was, upon respondent's motion, pending reconsideration; that respondents passed resolutions and ordinance causing and scheduling for public auction the lease of the entire Naujan Lake; that these later proceedings conducted by respondent's were illegal committed without or in excess of, or with grave abuse of discretion amounting to lack of jurisdiction, and would cause grave and irreparable injury to petitioner, and that there was no appeal, or other plain, speedy and adequate remedy in the ordinary course of law; hence, petitioner prayed that, upon filing of the requisite bond, a writ of preliminary injunction be issued ex parte to restrain respondent from conducting the scheduled public bidding,

and that after due hearing thereon judgment be rendered commanding respondents to desist from awarding that part of Naujan Lake pertaining to Pola town in its public auction.

On 18 October 1962, respondents presented a motion to dismiss the petition, setting forth, among other things, that its filing was premature since said decision of the Office of the President, dated 18 April 1962, upon which petitioner principally based his cause of action, is still pending reconsideration and that its effectivity had been suspended by said Office; hence, said petition stated no cause of action. Petitioner interposed, on 26 October 1962, his opposition to said motion.

On 17 November 1962, respondents submitted their memorandum in support of the motion to dismiss.

In the meantime, the same plaintiff, Manuel Suarez, on 12 November 1962, filed a mandamus case with preliminary injunction against both the municipalities of Naujan and Pola, of the province of Oriental Mindoro, and their respective Municipal Mayors, in the court of first Instance of said province, docketed therein as its Special Civil Case No. R-1,077. This petition contained practically identical negations as the petition in previous Special Civil Case No. R-1054, with a change in the allegation that the decision, dated 13 April 1962, of the Office of the President, resolving the territorial dispute over Naujan Lake in favor of Pola town, had already become final and executory, due Naujan town's failure to file a reconsideration or appeal in the five-day reglementary period, and adding claims for actual and consequential damages plus attorney's fees against respondents Naujan town and its Mayor. Hence, petitioner again prayed for the same provisional remedy of injunction previously asked in Special Civil Case No. R-1054, and, further, to command respondents Pola town and its Mayor to provide petitioner with adequate police protection in order to enforce effectively his fishery rights under his lease contract; and that, after due hearing thereon, judgment be rendered to make the preliminary injunction permanent; to order respondents Naujan town and its Mayor to pay actual and consequential damages plus attorney's fees; and declare the decision, dated 18 April 1962, of the Office of the President final and executory.

On 31 January 1963, respondents Naujan town and its Mayor filed a motion to dismiss said petition for mandamus on the following grounds: (a) that there was another action pending between the same parties for the same cause; (b) that the petition was barred by the rule against splitting a single cause of action; and (c) that the petition stated no cause of action. On 2 February 1963, petitioner submitted a so-called manifestation and motion, praying that the proceedings therein be held in abeyance pending resolution of the main case by the Office of the President.

On 26 March 1963, respondents Naujan town and its Mayor filed supplemental motions to dismiss said Special Cases Nos. R-1054 and R-1077, setting forth, as common ground therefor, that each of these petitions in said cases stated no cause of action because on 12 March 1963 the Office of the President had revoked its decision, dated 18 April 1962, the later decision, in effect, expressly recognizing the right of Naujan town to the exclusive jurisdiction over the entire area of Naujan Lake.

On the same day, 24 April 1963, the Court of First Instance of Oriental Mindoro issued two (2) separate but almost identically worded orders dismissing the petitions in Special Cases Nos. R-1054 and R-1077, the pertinent portion of which reads:

"It appearing that on March 12, 1963, the Office of the President revoked its decision, dated April 18, 1962, and expressly recognized the right to the exclusive jurisdiction of the municipality of Naujan over the entire area of Lake Naujan, which decision of the Office of the President squarely traverses and forcibly militates against the petitioner's cause of action, the Court believes and so holds that this action has no further cause for its beings.

"WHEREFORE, PREMISES CONSIDERED, this case is hereby dismissed, with costs against the herein petitioner."

Petitioner did not appeal from the above orders; hence, the same became final and executory.

More than a month later, on 29 May 1963, herein plaintiff filed in the Court of First Instance of Manila the present complaint for declaratory relief with preliminary injunction against herein defendants, who are the same respondents in Special Civil Cases Nos. R-1054 and R-1077 of the Court of First Instance of Mindoro. This complaint, likewise, contains practically identical allegations as the petitions in Special Civil Cases Nos. R-1054 and R-1077, but this time plaintiff prays for different relief, to wit: to determine by final and conclusive judgment (a) whether the contract of lease is legal and enforceable; (b) the existence of the "municipal waters" of Pola town over Naujan Lake; and (c) the extent and/or area of the municipal waters of Pola town within the waters of Naujan Lake. Upon filing of the complaint, Judge Gaudencio Cloribel of the Manila Court issued the corresponding writ of preliminary injunction prayed for therein.

On 17 July 1963, defendants municipality of Naujan and its Mayor interposed a motion to dismiss the complaint, on the ground that plaintiff's cause of action is barred by prior judgment, i.e., by the final orders of dismissal issued by the Mindoro Court in the aforesated Special Civil Cases Nos. R-1054 and R-1077, in which herein plaintiff was the petitioner and herein defendants were respondents. Plaintiff submitted, on 1 August 1963, his opposition to said motion.

On 17 September 1963, the Manila Court, through Hon. Judge Y. Perez, finding that all elements of res judicata concurred in the present case, dismissed plaintiff's complaint and set aside the writ of preliminary injunction heretofore issued by Judge Gaudencio Cloribel.

On 12 October 1963, plaintiff Suarez filed a motion to reconsider said order of dismissal, but the trial court denied, on 19 October 1963, the same hence, plaintiff appealed directly to this Court.

Plaintiff-appellant assigns five (5) alleged errors of the trial court in its brief, the determination of which hinges on one fundamental issue: whether or not the requisites of res judicata are present in the case at bar.

It is already well settled that—

"In order that a judgment rendered in a case may be conclusive and bar a subsequent action, the following requisites must be present: (a) it must be final judgment or order (b) the court rendering it must have jurisdiction over the subject matter and of the parties; (c) it must be a judgment on the merits; and (d) there must be between the two cases identity of parties, identity of subject matter, and identity of cause of action." (San Diego vs. Cardona, 70 Phil. 281; Lapid vs. Lawan, 101 Phil. 1243 (unrep.), L-16686, 31 May 1957; Aguilar vs. Gamboa, L-10137, 25 March 1958).

A cursory comparison and scrutiny of the pleadings filed by the parties in the above mentioned two Mindoro cases and the present case, as well as the proceedings had therein, convinces us that the trial court correctly concluded that the requisites of res judicata are present in the case at bar. Thus, the existence of a final order, and an adjudication on the merits, cannot be seriously questioned, because the orders of dismissal issued by the Mindoro court in Special Civil Cases Nos. R-1054 and R-1077 have acquired the character of finality, no appeal therefrom having been taken by plaintiff within the reglementary period; and the same orders are considered final judgments on the merits (Planas vs. Castello, 100 Ph 379), although said dismissals were predicated on a lack of cause of action (Florendo vs. Vda. de Gonzales, 87 Phil. 631; Licup vs. Manila Railroad Co., et al., L-16196 30 May 1961).

But appellant urges that said orders of dismissal are null and void because they are based on a null and decision,

dated 12 March 1963, of the Office of the President, revoking its earlier decision, dated 18 April 1962, appellant claiming that the latter is the one valid and enforceable. This argument assails the correctness of said orders of dismissal and not the jurisdiction of the courts to issue the same. Assuming, for the sake of argument, that the orders were erroneous, the appropriate remedy was to appeal in due time and not the filing of a new suit, since the alleged error is not jurisdictional.

The jurisdiction of the Court of First Instance of Mindoro is indubitable because the subject matter of both previous actions was the enforceability of the petitioner's fishery rights over part of Naujan Lake, properly cognizable by the Mindoro court. The petitions therein were commenced at the instance of plaintiff, and defendants were served with the corresponding summons; hence, the Mindoro court acquired jurisdiction over the subject matter and the parties.

With respect to the identity of parties the same is evident on the face of the record, it appearing that herein plaintiff is the same petitioner in Special Civil Case No. 8-1077 while defendants are, likewise, the same respondents. Although defendants municipality of Pola and its Mayor were not parties in the first, case (Special Civil Case No. R-1054), their non-inclusion will not affect the existence of *res judicata* since the rule does not require absolute identity but only substantial identity of parties, subject matter or issues (*Grimn vs. Atok-Big Edge Mining Co.*, L-11887, 29 December 1959).

The identity of causes of action and issue is, likewise, clear, the same being the refusal of Naujan town and its Mayor to allow herein plaintiff to exercise his fishery rights under said lease contract.

Appellant urges that there is no identity of causes of action because the relief prayed for in the three cases are different. In this regard, suffice it to state that—

"Well settled is the rule that a party cannot, by varying the form of action, or adopting a different method of presenting his case, escape the operation of the principle that one and the same cause of action shall not be twice litigated between the same parties or their privies (*Francisco vs. Bias*, 93 Phitt. 1)." (*Wenzel vs. Surigao Consolidated Mining Co.*, L-10843, 31 May 1961).

With the above conclusion, We deem it unnecessary to discuss the other errors assigned by appellant, or the propriety of the action for declaratory judgment, which is highly doubtful in the present case, to say the least.

Wherefore, the orders appealed from should be, as they are hereby affirmed. With costs against plaintiff-appellant Manuel Suarez.

Concepcion, C. J., Barrera, Dizon, Regala, Makalintal, Bengzon, J. P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

Orders affirmed.

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