

CAUSAPIENCIA CLEMENTE, ET AL., PLAINTIFFS-APPELLANTS, VS. H. E. HEACOCK CO., ET AL., DEFENDANTS-APPELLEES.*G.R. No. L-23212. May 18, 1967*

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

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Appeal from the order of the Court of First Instance of Rizal dis-missing the complaint in Civil Case No. Q-5894. Originally filed in the Court of Appeals, it was certified to this Court for the reason that the issue being raised is purely legal.

Juan J. Clemente was the owner of Lots 216, 228 and 125 of the Tala Estate Subdivision, with a total combined area of 91,918 square meters, covered by TCT Nos. 11772, 11773 (Rizal) and 10965 (Quezon City), registered in his name. To guarantee payment of goods consigned to him Clemente constituted on 29 July 1948 a real estate mortgage on these 3 parcels of land in favor of H. E. Heacock Company.

Clemente failed to comply with his obligations; thus, the Court of First Instance of Rizal, in the foreclosure suit brought by H. E. Heacock Company (Civil Case No. 947), ordered him to pay to the plaintiff the sum of P11,517.75, with legal interest thereon, plus at-torney's fees, within 90 days from notice, otherwise, decree of foreclosure of the mortgage shall issue. As Clemente once more failed to make payment, writ of execution was duly issued and the prop-erties were sold by the Provincial Sheriff of Rizal at public auction on 23 May 1955 for P14,301.34 to the highest bidder, the H. E. Heacock Company. This judicial sale was confirmed by order of the court of 17 September 1956.

It appears, however, that after the public sale but before its confirmation by the court, the plaintiff company sold the same 3 parcels of land to Amparo Belen de Guzman for P10,717.00. Upon hearing this, Clemente instituted Civil Case No. 4365 in the same court of first instance, for annulment of this subsequent sale.

On motion of therein defendants, H. E. Heacock Company and the De Guzman spouses, the complaint was dismissed, the court holding that the confirmation-order issued in Civil Case No. 947 constituted *res judicata* to that later case. Appealed to this Court, the order of dismissal of Civil Case No. 4365 was upheld,[1] thus:

"x x x it must be apparent that plaintiff may com-plain about Heacock's transfer only if the confirmation of the auction sale is revoked. This is so, because after the approval of the auction sale, he had lost all interest in the property, he had no right of redemption and had no business attacking the transfer to the Guzmans, whether fictitious or void or illegal in any manner.

"In this action, therefore, he must be deemed mainly to be seeking the revocation (or reconsideration) of such approval. Yet, that is precisely the question admittedly pending before the court in Civil Case No. 974 (foreclosure).

"Consequently, this action should be dismissed, in view of the pendency of another litigation between the same parties on identical issues. It makes no difference that the Guzman spouses were not impleaded in the foreclosure proceeding: they are successors in interest of the plaintiff there, and they acquired the lands after

the commencement of such foreclosure."

In the meantime, Clemente appealed from the orders denying his motions for reconsideration and for setting aside of the order of confirmation, first in the Court of Appeals, and later to this Court.[2] In the decision of 25 October 1960, this Court affirmed the ruling of the Court of Appeals sustaining the validity of the confirmation-order and disregarding Clemente's allegations of lack of notice and hear-ing, taking into consideration the finding of the Court of Appeals that -?

"The alleged collusion between the H. E. Heacock Co. and Amparo Belen de Guzman was not shown. Appellant contends that he has been deprived of the opportunity to prove it, but such contention is untenable, as the record fails to reveal that he had even attempt-ed to offer evidence during the hearing held to deter-mine whether or not the sale should be confirmed."

On 7 July 1961, Causapiencia Clemente, et al., heirs of Juan J. Clemente who had since died, filed the present complaint against the H. E. Heacock Company and Jose J. de Guzman (Spouses) in the Court of First Instance of Rizal, docketed as Civil Case No. Q-5894, pray-ing for judgment --

"(a) On the First Cause of Action, declaring the foreclosure sale of plaintiffs' three (3) parcels of land described in paragraph 2 hereof made by the Sheriff in favor of defendant H. E. Heacock Co. on May 23, 1955, null and void and rescinded; that Transfer Certificate of Title Nos. 33164 (Quezon City), 46923 and 46924 (Rizal) issued by the Register of Deeds of Quezon City and Rizal, respectively, to de-fendant H. E. Heacock Co., be declared null and void and ordered cancelled;

"(b) On the Second Cause of Action, declaring the Deed of Absolute Sale executed by defendant H. E. Heacock Co. in favor of defendant Amparo Belen de Guzman covering the above-mentioned three (3) parcels of land null and void and rescinded; that Transfer Certificates of Title Nos. 33298 (Quezon City), 47136 and 47137 (Rizal), issued by the Register of Deeds of Quezon City and Rizal, respectively, to defendant Amparo Belen de Guzman be declared null and void and ordered cancelled;

"(c) Ordering the defendants to reconvey to the plaintiffs the three (3) parcels of land heretofore described and now covered by Transfer Certificates of Title Nos. 33298 (Quezon City), 47136 and 47137 (Rizal) of the Office of the Register of Deeds of Quezon City and the Province of Rizal, respectively;

"(d) On the Third Cause of Action, ordering the defendants to pay plaintiffs, jointly and severally, the sum of not less than P2,500.00, as and for at-torney's fees and expenses of litigation;

"(e) For costs of this suit."

The action was based on the allegations that the purchase of the lots by H. E. Heacock Company was null and void, because at the time of the judicial sale, said defendant had no corporate authority to acquire lands or any interest therein; that the consolidation of the company's title over the lots was irregular and illegal for failure to observe the legal proceedings specified in sections 63 and 78 of Act 496; that the sale was null and void, because the purchase price of P14,301.34 was unconscionably low for the properties allegedly worth P200,000.00; and that the purchase by Amparo Belen de Guzman of the same prop-erties for P10,717.00 was without valuable consideration, in view of the great disparity between the said purchase price and the market value of the properties.

On defendants' motions, however, the court dismissed the com-plaint on the ground of res judicata. Plaintiffs then interposed the present appeal.

In questioning the correctness of the application by the lower court of the doctrine of res judicata to the present case, herein ap-pellants claim that there is no identity of the subject matter and causes of action in Civil Cases

Nos. 947, 4365 and Q-5894, in that, while the subject matter in the first were the indebtedness and mortgage, in the second, it was the premature sale of the prop-erties to the De Guzman spouses; and, it was the extrinsic fraud (allegedly consisting of the non-disclosure by the company of its incapacity to purchase lands) which vitiated the foreclosure proceedings, in the third case. Furthermore, since the test for deter-mining identity of causes of action is the materiality of the same evidence to the present and former causes of action, and there was no evidence received in both Civil Cases Nos. 947 and 4365, then, according to appellants, there is no set of uniform evidence that would support the causes of action in the three cases.

The contentions are devoid of merit. It may be pointed out that Civil Case No. 947 was not only for collection of an indebtedness, but also for foreclosure of the mortgage constituted on the 3 parcels of land. The matter or thing with respect to which the controversy arose was not only the amount collectible from the debtor-mortgagor, but also the subject of the mortgage-contract, which were the 3 par-cels of land. And, in the present action filed by appellants, it is evident that the things subject of the litigation are the same lots.

As to the cause of action, H. E. Heacock Company, as plain-tiff in Civil Case No. 947, had to establish not only its right to collect the indebtedness, and to ask for the foreclosure of the mort-gage, but also to show its right, as purchaser, to acquire the properties at the public auction. In Civil Case No. Q-5894, on the other hand, it was clear from the allegations of the complaint,[3] as well as in its prayer, that the principal issue tendered by plaintiffs (and the others depended upon it) was the annulment of the sale or award of the properties to the appellee company. These matters were already finally passed upon in Civil Cases No. 947 and 4365 of the court of first instance, specifically in the order confirming the judicial sale, and in the decisions of this Court in G. R. Nos. L-15233 and L-12786.

It may be true that the matter of the competency of the appellee company to acquire lands was not formally ruled on in those 2 pre-vious cases. But, this is so because appellants' predecessor never contested the corporate capacity of said purchaser, which question properly should have been raised in Civil Case No. 947, being germane to the approval of the sale. Therein defendants' failure to do so, therefore, constituted waiver of that defense. Thus, when the judicial sale of the properties was confirmed, the court in effect recognized the existence of all the elements for the valid-ity of the contract of sale, viz., the subject, consent (and capacity of the parties), and consideration. After such confirmation of the sale, the mortgagor (and his successors, herein appellants) lost the right to redeem the foreclosed properties and to question the subsequent conveyance thereof to the De Guzman spouses.[4] Clearly, the rulings in those 2 previous cases are res judicata to the present action. It is well-settled that a change in the re-medy sought or in the form of action is no bar to res judicata (v. Moran, Rules of Court, 1963 ed., vol. 2, pp. 329, 330; Francisco vs. Blas, 93 Phil. 4).

The fatal flaw in appellants' position lies in their inability (or unwillingness) to discern that the foreclosure proceedings (Civ. Case No. 947) in reality resolved two different issues: (1) the existence of the mortgage indebtedness and the debtor's default, matters that were resolved by the decree of foreclosure of the mortgage; and (2) the validity of the sale of the mortgaged properties to the purchaser mortgagee, H. E. Heacock Company, which was decided by the trial court's order confirming the sale, and was finally upheld by the superior courts. The validity of the sale to H. E. Heacock necessarily involved the capacity of the latter to acquire the land subject of the foreclosure sale. Hence, the confirmation order concluded all future controversies about the sale to H. E. Heacock that appellants are seeking to relitigate and revive in the present suit. Of course, once the sale to H. E. Heacock is (as it was in fact) adjudged valid, appellants lose all standing to question Heacock's subsequent transfers to the spouses De Guzman.

With the foregoing conclusion, there is no necessity for us to pass upon the issue of the timeliness or untimeliness of the motion to dismiss of the defendants De Guzman also raised by appellants.

WHEREFORE, the order appealed from is hereby affirmed, with costs against the appellants.

SO ORDERED.

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

[1] Clemente vs. H. E. Heacock Company, et al., G. R. No. L-12786, October 29, 1959.

[2] Clemente vs. Court of Appeals, et al., G. R. No. L-15233, October 25, 1960.

[3] "5. That defendant H. E. Heacock Company's purchase of plaintiffs' properties in the foreclosure sale is null and void, as said defendant possessed neither power nor authority under its own charter to acquire, by purchase or otherwise lands and interest in land at the time of said purchase;

"6. That the consolidation of the defendant Company's title over plaintiffs' above-mentioned properties is unlawful, illegal, irregular, and therefore, null and void, said defendant having failed to observe or follow the proper legal proceedings in consolidation of titles as enjoined by Sections 63 and 78 of Act 496 which require that a proper petition for the entry of a new certificate of title must be filed in court so that any objection that may be interposed relative to the validity of the proceedings leading to the transfer of the land subject thereof may be determined and threshed out. x x x.

"7. That the purchase price of P14,301.34 paid by defendant Heacock in the auction sale of plaintiffs' properties is highly unconscionable, immoral, and contrary to law and public policy, for purchase price was too far below the minimum market price of said properties. The fair market value of the three (3) parcels of land, which contained a total area of 91,918 square meters, more or less, is conservatively assessed at P200,000.00;" (Complaint, p. 11, Record on Appeal.)

[4] Clemente vs. H. E. Heacock Co., et al., G. R. No. L-12786, October 29, 1959.

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