

**FELIPE SAMSON, REPRESENTED BY HIS ATTORNEY-IN-FACT,
AURORA S. MACALINO, PLAINTIFF-APPELLANT, VS. FELICIANA
RAMOS AND THE GOVERNOR, LAND AUTHORITY,
DEFENDANTS-APPELLEES.**

G.R. No. L-33340. January 31, 1978

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

The plaintiff Felipe Samson, represented by his attorney-in-fact, Aurora S. Macalino, appealed to the Court of Appeals from the order of the Court of First Instance of Manila, Branch XXV, in Civil Case No. 64400 dismissing the complaint on the ground of res judicata.[1] The appeal was docketed as CA-G.R. No. 39453-R.

In a resolution promulgated on January 18, 1971, the Court of Appeals, Fifth Division, certified the case to the Supreme Court because only a question of law is involved.[2]

On February 22, 1966 Felipe Samson, represented by his attorney-in-fact, Aurora S. Macalino, instituted against Feliciano Ramos and the Governor of the Land Authority, in the Court of First Instance of Manila, Civil Case No. 64400 seeking the following relief:

"a. Ordering the correction of Transfer Certificate of Title No. 78664-Manila, in the name of Feliciano Ramos, in the sense that an area of 36.8 sq. m. should be deducted from Lot 2, Block 12, Psc-5580, and which area of 36.8 sq. m. should be included or integrated to Lot 53-B, Block 12, Psc-3526 now Lot 1, Psc-5580 belonging to the plaintiff; or if such step is not practicable or feasible, then said T.C.T. No. 78664-Manila, should be ordered cancelled in so far as the 36.8 sq. m. excess is concerned, the said area to be returned or reconveyed to the plaintiff;

b. Ordering the defendant Governor of the Land Authority to make a final award to the plaintiff of the lot or area fully paid for by said plaintiff with an area of 150 sq. m., more or less, free from all liens and encumbrances;

c. Ordering the defendants to pay the damages suffered by the plaintiff as a consequence of this suit the full assessment of which is left to the sound discretion of the Court.

d. Plaintiff finally prays for such other and further remedies as are consonant with law and justice.

Manila, Philippines, January 26, 1966.

D. AQUINO & ASSOCIATES

By: DOMINGO C. AQUINO

Counsel for the Plaintiff
224 Natividad Building
Escolta, Manila"[3]

In their answers the defendants alleged as affirmative defense that the complaint is barred by the judgment rendered by the Court of First Instance of Manila in Civil Case No. 42913 entitled "Felipe Samson, et al., vs. The Honorable Executive Secretary, et al.," and by the decision of the Court of Appeals in CA-G.R. No. 29544-R.[4]

The defendants filed on September 16, 1966 a joint motion to dismiss the complaint on the ground of res judicata inasmuch as the subject matter in the instant action, Civil Case No. 64400, is within the disputed portion of 63.6 square meters, subject matter in CA-G.R. No. 29544-R and Civil Case No. 42913 of the Court of First Instance of Manila.[5]

In an order dated November 14, 1966, the lower court granted the joint motion to dismiss.[6]

The plaintiff-appellant assigned the following errors:

"I

THE LOWER COURT ERRED IN NOT RULING THAT THE PRESENT CASE IS ENTIRELY DIFFERENT IN LEGAL ISSUES AND THE FACTS INVOLVED FROM THE PREVIOUS CASES BETWEEN THE HEREIN APPELLANT AND APPELLEES.

II

THE LOWER COURT ERRED IN RULING THAT THE INSTANT CASE IS COVERED BY THE RULE OF 'RES JUDICATA'.

III

THE LOWER COURT ERRED IN DISMISSING THIS CASE WITHOUT MEETING SQUARELY AND RESOLVING THE VITAL LEGAL AND FACTUAL ISSUES RAISED OR PRESENTED IN THIS CASE."[7]

The record shows that on September 30, 1950 Pedro Dandan, married to Paulina de Leon, filed with the Rural Progress Administration, then in charge of the Nuestra Señora de Guia Estate in Tondo, Manila, an application to

purchase Lot No. 13, Block 12, Plan Pcs-2555 of the said Estate, with an approximate area of 123.6 square meters; that on May 2, 1951 a "Kasunduan Sa Pagbili" was entered into between the Director of Lands and Pedro Dandan covering said Lot 13, Block 12, Pcs-2555, with an area of 123.6 square meters, which document was approved by the Secretary of Agriculture and Natural Resources on May 5, 1951; that meanwhile on or about April 28, 1951 the occupants of Blocks 11 and 12 of the Estate signed a petition for a resubdivision survey on the ground that the lots as previously subdivided did not conform to the existing improvements thereon; that the petition was approved on September 26, 1951 by the National Planning Commission and a new subdivision survey was executed on March 31, 1952, being Pcs-3526, according to which Lot 13, Block 12, Pcs-2555, containing an area of 123.6 square meters, became Lot 71 with an area of 60 square meters only, a portion of 63.6 square meters having been taken away; that on February 12, 1954 Pedro Dandan sold his rights over the aforesaid Lot 13, Block 12, Pcs-2555, with an area of 123.6 square meters; that the deed of sale was approved by the Undersecretary of Agriculture and Natural Resources on February 18, 1954; that Sales Memorandum of Agreement to Sell No. 14325 over Lot 53, Pcs-3526, with an area of 175.8 square meters with Felipe M. Samson as purchaser and effective on March 29, 1954 was executed; that sometime in April 1954 a dispute arose concerning the portion of 63.6 square meters taken away from Lot No. 13, Block 12, Pcs-2555; that on the one hand, Felipe Samson claimed that the disputed portion of 63.6 square meters belonged to him by virtue of the resubdivision survey based on actual occupancy; that on the other hand, Feliciano Ramos claimed that said portion in dispute was a part and parcel of Lot 13, Block 12, Pcs-2555 which she purchased from Pedro Dandan, the bona fide tenant thereof; that on October 10, 1955 the dispute was decided by the Director of Lands in favor of Feliciano Ramos; that Felipe Samson appealed from said decision; that the Executive Secretary, in a communication dated October 23, 1957 addressed to the counsel of Felipe Samson, dismissed the appeal and the proposed transfer of rights from Pedro Dandan to Feliciano Ramos was given due course; that to stop the implementation of the aforesaid decision, Felipe Samson and his sister, Aurora Samson-Macalino, instituted an action for prohibition and/or injunction docketed as Civil Case No. 42913 in the Court of First Instance of Manila against the Executive Secretary, the Chairman, Land Tenure Administration and Feliciano Ramos; that the Court of First Instance dismissed the petition of prohibition and/or injunction; and that the Court of Appeals in CA-G.R. No. 29544-R affirmed the decision of the Court of First Instance in Civil Case No. 42913 dismissing the petition for prohibition and/or injunction.[8]

The issues involved in this appeal are (1) whether the land in question involved in Civil Case No. 42913 of the Court of First Instance of Manila is the same as the land which is the subject matter in the instant case and (2) whether the land sold by the Land Authority on February 3, 1965 to Feliciano Ramos known as Lot 2, Pcs-5580 with an area of 123.8 square meters is the same as Lot 13, Block 12, Pcs-2555 awarded to said Feliciano Ramos.

Lot 2, Pcs-5580 sold to Feliciano Ramos is described as follows:

"SUBJECT:

TECHNICAL DESCRIPTIONS:

Lot 2
Pcs-5580
(Feliciano Ramos)

A PARCEL OF LAND (Lot 2 of the consolidation and subdivision plan Pcs-5580, being a portion of the consolidation of Lots 53 and 71 of plan Pcs-3526, L.R.C. Record No. ____), situated in the District of Tondo, City of Manila. Bounded on the SE., along line 1-2, by Lot 1 of the consolidation and subdivision plan; on the SW., along line 2-3, by Lot 54; and along lines 3-4-5, by Lot 55; on the NW., along line 5-6, by Lot 52; on the NE., along 6-7, by Lot 35; on the NE. and NW., along lines 7-8-9-10, by Road Lot 6; and on the NE., along line 10-1, by lot 34, all of plan Pcs-3526. Beginning at a point marked '1' on plan, being N. 25 deg. 20' W., 485.74 m. from B.L.L.M. 51, Manila Cad.,

thence S. 12 Deg. 58' W., 13.10 m. to point 2; thence N. 79 deg. 35' W., 0.78 m. to point 3; thence N. 73 deg. 12' W., 4.22 m. to point 4; thence N. 77 deg. 39' W., 5.00 m. to point 5; thence N. 12 deg. 21' E., 12.00 m. to point 6; thence S. 77 deg. 39' E., 3.00 m. to point 7; thence S. 77 deg. 39' E., 2.00 m. to point 8; thence S. 77 deg. 39' E., 2.85 m. to point 9; thence N. 14 deg. 15' E., 1.00 m. to point 10; thence S. 72 deg. 37' E., 2.25 m. to the point

of beginning; containing an area of ONE HUNDRED TWENTY THREE SQUARE METERS AND EIGHTY SQUARE DECIMETERS (123.80). All points referred to are indicated on the plan and marked on the ground as follows: points 1 and 2, by P.S. Cyl. Conc. Mons.; point 4, by Old Nail on Well; and the rest, by Old P.L.S. Cyl. Conc. Mons.; bearing true; date of the original survey, Sept.-Oct., 1918, that of the consolidation and subdivision survey, April 22, 1964 and approved on Sept. 29, 1964.

A. Cajumban CERTIFIED CORRECT:

Nov. 24/65

Checked by: Manila, November 24, 1965

For the Director of Lands:

(Sgd.) JOSE B. SARE

Chief, Surveys Division

By:

(Sgd.) ELEUTERIO R. PAZ

Supervising Surveyor III"[9]

It appears from the foregoing description that plan Pcs-5580 is a consolidation and subdivision plan and that Lot 2 thereof is a portions of the consolidation of Lots 53 and 71 of plan Pcs-3526 involved in Civil Case No. 42913 of the Court of First Instance of Manila and CA-G.R. No. 29544, where the Court of Appeals concurred in the following findings of the lower court:

"x x x Precisely, it is to be noted that although Felipe Samson had made a deposit for Lot 53, Pcs-3526, neither

Felipe Samson nor the herein petitioners have filed an application to purchase either Lot 53, Pcs-3526 with an area of 175.8 sq. meters, or lot 12, Pcs-2565, with an area of 138.5 sq. meters in the original survey, sold to Feliciano Ramos. Besides, although the name of Felipe Samson appears in the sales memorandum showing the down payment and other details of Lot 53, Pcs-3526, with an area of 175.8 sq. meters, the same is not signed, which shows that it has never been approved. And again, according to the testimony of Atty. Besa, the prospective awardees of government lots are first being processed in accordance with the provision of Act 539, and Land Administrative Order No. R-3-1, to determine their being landless, and as per above provision, the petitioners have not acquired any right as yet in Lot 53, Pcs-3526 above-mentioned, specially on this disputed portion of 63.6 sq. meters, so that they have no material and legal interest in the land in question and, therefore, have no basis to bring the instant suit."^[10]

It is clear that the area of 36.8 square meters sought by the plaintiff-appellant to be deducted from Lot 2, Block 12, Pcs-5580 to be integrated or included in Lot 53-B, Block 12, Pcs-3526 is included in the former Lot 13, Block 12, Plan Pcs 2555 awarded to Feliciano Ramos and that Lot 2, Block 12, Pcs-5580 is the same as Lot 13, Block 12, Pcs-2555.

The lower court, therefore, correctly dismissed the present action on the ground of res judicata.

WHEREFORE, the order appealed from dismissing the complaint in Civil Case No. 64400 of the Court of First Instance of Manila is hereby affirmed, with costs against the plaintiff.

SO ORDERED.

Castro, C.J., Teehankee, (Chairman), Makasiar, and Guerrero, JJ., concur.

Muñoz Palma, J., did not take part.

[1] Record on Appeal, pp. 66-68, Rollo, p. 8.

[2] Rollo, pp. 25-28. The resolution was written by Justice Hermogenes Concepcion Jr. and concurred in by Justice Ruperto G. Martin and Justice Cecilia Muñoz Palma.

[3] Record on Appeal, pp. 8-9, Rollo, p. 8.

[4] Ibid., pp. 22-34, Rollo, p. 8.

[5] Ibid., pp. 40-46, Rollo, p. 8.

[6] Ibid., pp. 66-68, Rollo, p. 8.

[7] Brief for the Appellant, pp. 1-2, Rollo, p. 12.

[8] Record on Appeal, pp. 46-57, Rollo, p. 8.

[9] Annex "D" of Complaint, Record on Appeal, pp. 14-15, Rollo, p. 8.

[10] Record on Appeal, pp. 56-57, Rollo, p. 8.

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