

SILVINO DE GOMA, PLAINTIFF AND APPELLANT, VS. ROSARIO DE GOMA, JOSE MONTALYO, JR., BEATRIZ B. MENDOZA, AND HER HUSBAND; RAFAEL B. MENDOZA, MACARIO M. OFILADA, IN HIS CAPACITY AS...

G.R. No. L-18739. December 28, 1964

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This case is before us on appeal by plaintiff Silvino de Goma from the order of the Court of First Instance of Manila (Branch XIII) dismissing the complaint upon motion filed by defendants.

The facts are not disputed. In Civil Case No. 39612 of the Court of First Instance of Manila (Branch III) Beatriz B. Mendoza obtained a default judgment for a sum of money against Rosario C. de Goma, wife of herein plaintiff-appellant. The latter, as husband, was himself joined as party-defendant in that action. Execution was issued and levied on a certificate of public convenience in the name of Rosario C. de Goma for the operation of several transportation units in the City of Manila. On June 22, 1959 the sale at auction was duly held, wherein the highest bidder was Jose Montalvo, Jr. A certificate of sale was made out to him by the sheriff of Manila.

On March 18, 1960 Rosario C. de Goma filed an action (Civil Case No. 42787) against herein defendants-appellees Jose Montalvo, Jr., Beatriz B. Mendoza and (her husband, and Macario M. Ofilada as sheriff of Manila, for annulment of the sale on execution on the ground that a certificate of public convenience is not property that may be subject to such process. Silvino de Goma joined his wife as party-plaintiff.

On September 3, 1960 the lower court, on the basis of memoranda submitted by the parties, held the execution sale to be valid and so issued an order dismissing the complaint. The order became final and execution thereof was granted, whereupon defendant-appellee Jose Montalvo, Jr. filed an application with the Public Service Commission for the approval of the sale of the certificate of public convenience to him. The application was duly approved.

On April 11, 1961 the present action was filed. This time the plaintiff is Silvino de Goma alone, in his capacity as administrator of the conjugal properties of which, according to him, the certificate of public convenience subject of the auction sale formed part. The prayer in the complaint is again for annulment of the sale, although on another ground, namely, that plaintiff's wife could not bind said properties without his consent, and no consent was given by him when she contracted the original indebtedness in favor of Beatrix B. Mendoza. The defendants in this latest action are plaintiff's wife Rosario C. de Goma, Beatriz B. Mendoza and her husband, City Sheriff Macario Ofilada and the Public Service Commission. All of them except Rosario filed separate motions to dismiss the complaint on the ground of res judicata; and on May 16, 1961 the Court issued the order of dismissal. It is from this order as well as from a subsequent one denying plaintiff's motion for reconsideration that the present appeal has been taken.

Appellant's principal contention is that the doctrine of res judicata does not apply because there is no identity of cause of action between the first case filed by him and his wife and this second one filed by him alone. The contention is untenable. In both cases the cause of action is the same: the legal wrong allegedly committed by defendants, that is, the sale on execution of the certificate of public convenience. And in both cases the object of the action, the relief prayed for, is likewise the same, namely, the annulment of such sale. What are different are the grounds upon which the annulment has been sought; but these grounds do not make for distinct causes of action. One cause of action may be presented and tried on several issues, but it would not do for a party to file as many complaints as there are issues on the theory that each issue constitutes a distinct and separate cause of action. The plea of res judicata applies not only to the point upon which the court was required by the parties to form an opinion and pronounce judgment, but to every point which belonged to the subject of litigation and which the parties exercising reasonable diligence might have brought forward at the time. Thus it has been held that the doctrine of res judicata operates not only in regards to the specific defense alleged by the petition in the former action, but also to the non-existence of another defense which not been pleaded therein (*Alejandrino vs. Cordona and Register Deeds*, 70 Phil. 281). The many rulings of this Court on the matter have been re-stated in section 49, subsection (b), Rule 39 of the Revised Rules of Court (amending section 44, subsection (b) of the old Rule 39), as follows:

"SEC. 49. Effect of Judgment.-The effect of judgment or final order rendered by a court or judge of the Philippines, having jurisdiction to pronounce the judgment or order, may be as follows:

x x x

(b), In other cases the judgment or order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity;"

x x x

The alleged nullity of the execution sale encompasses not only the question concerning the leviability character of the certificate of public convenience as property but also the factual questions of whether or not it pertained to the conjugal partnership of appellant and his wife and, if it did, whether or not the obligation for which judgment was obtained and execution levied had been contracted by her with his consent. The validity of the sale presupposes an affirmative answer to each and every one of those questions. It was so answered by the trial court in the former action for annulment expressly as to the first question and as an unavoidable consequence of its decision with respect to the last two, in view of appellant's failure to raise them when they could have been raised by him, related as they were to the plea of nullity. To countenance the present case would in effect be to allow the splitting of a single cause of action, which is prohibited by the Rules (sections 3 and 4, Rule 2). Both public interest and the interest of the immediate parties demand that they sue once and for all in the same case the remedy to which they claim to be entitled; otherwise litigation could well be a weapon of harassment instead of a remedy for stability and repose.

The order appealed from is affirmed, with costs.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, Bengzon, J. P. and Zaldivar, JJ., concur.

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