

**POTENCIANA CALDERON AND VICENTE CALDERON,
PLAINTIFFS-APPELLANTS, VS. CECILIA TORRES-MARIANO,
DEFENDANT-APPELLEE.**

Ponente: YBAÑEZ, J.

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YBAÑEZ, J.:

Because the Regional Trial Court of Malolos City, Bulacan issued an Order dated 24 March 2011[1] in Civil Case No. 206-M-2009 granting defendant-appellee's motion to dismiss which consequently dismissed their case for reimbursement of expenses as builders in good faith, plaintiffs-appellants appealed before this Court seeking the reversal of the aforesaid Order.

The Facts

The subject property in this case is a house and lot located at Brgy. Lumbac, Poblacion, Pulilan, Bulacan and covered by Tax Declaration No. 94-19-011-00551, originally owned by Arcadia Torres.[2]

On 18 March 2009, plaintiffs-appellants filed the instant Complaint for Reimbursement of Expenses as Builders in Good Faith[3] against defendant-appellee averring that, due to their belief in good faith that they are the owners of the subject property, the latter should return the amount of Three Hundred Twenty Seven Thousand Pesos (P327,000.00) which they spent for improvements (repair and construction of pig pens) thereon in 1998 up to 2001. They introduced improvements on the subject property after the original owner, Arcadia Torres sold it to them for One Hundred Fifty Thousand Pesos (P150,000.00) on 18 August 1997. However, in the suit for annulment of title and declaration of sale to be equitable mortgage filed by herein defendant-appellee against the plaintiffs-appellants on 24 January 2000 and docketed as Civil Case No. 47-M-2000, Branch 82, Regional Trial Court of Malolos, Bulacan declared the sale to be a mere equitable mortgage in its Decision dated 10 February 2003.[4] Said judgment was consequently affirmed by the Court of Appeals in its Decision dated 21 December 2007[5] and the Supreme Court in its Resolution dated 13 August 2008.[6] Thus, plaintiffs-appellants is now praying that defendant-appellee be compelled to return the aforesaid amount which as of the date of filing of the instant complaint already ballooned to Seven Hundred Fifty Thousand Pesos (P750,000.00).

For her part, defendant-appellee argued that plaintiffs-appellants are not entitled to any reimbursement because they acted in bad faith for having introduced improvements on another's land. She further posited that the said claims are now forfeited since the same should have been raised or invoked in Civil Case No. 47-M-2000.[7]

On 18 October 2010, defendant-appellee filed a Motion to Dismiss[8] on the ground that the instant case is already barred by res judicata. She contended that the decision in Civil Case No. 47-M-2000, which was already final and executory already passed upon the causes of action in the instant case. In fact, the subject matter in the second case, that of reimbursement for the repair of the house and construction of pig pens, was already touched upon in the first case as defendant-appellee was required to pay One Hundred Fifty Thousand Pesos (P150,000.00) for the redemption amount of the mortgage.

Plaintiffs-appellants, on the other hand, countered that their cause of action arose only after the finality of the first case's decision since that is the time that defendant-appellee's ownership reverted back to her. Thus, there can be no identity of cause of action between the instant case and Civil Case No. 47-M-2000 since the present case is anchored on Article 448 in relation to Article 546 of the Civil Code while the latter is annulment of title.[9]

On 24 March 2011, the court a quo issued an Order[10] granting defendant-appellee's Motion to Dismiss on the ground of res judicata. It found that the issues between the two cases are identical such that plaintiffs-appellants should have raised their claims that they are entitled to reimbursement of expenses as builder in good faith in Civil Case No. 47-M-2000 by way of a counterclaim.

Aggrieved with the aforesaid Order, plaintiffs-appellants appealed before this Court interposing the following errors[11] purportedly committed by the court a quo, to wit:

I.

THE TRIAL COURT ERRED IN ACCEPTING DEFENDANT'S SUGGESTION THAT THERE IS IDENTITY OF CAUSE OF ACTION BETWEEN THE INSTANT CASE AND THE EARLIER CASE DOCKETED AS CIVIL CASE NO. 47-M-2000 ENTITLED ARCADIA TORRES, PLAINTIFF VS. POTENCIANA CALDERON AND VICENTE CALDERON, DEFENDANTS;

II.

THE TRIAL COURT ERRED IN APPLYING THE DOCTRINE OF RES JUDICATA IN THE INSTANT CASE.

The Issue

In essence, the issue presented for our resolution is whether or not the instant case of reimbursement of expenses as builder in good faith is already barred by the final and executory decision rendered in Civil Case No. 47-M-2000.

The Ruling of this Court

This appeal is meritorious.

Res judicata literally means “a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment. It lays the rule that an existing final judgment or decree rendered on the merits, without fraud or collusion, by a court of competent jurisdiction, upon any matter within its jurisdiction, is conclusive of the rights of the parties or their privies, in all other actions or suits in the same way or any other judicial tribunal of concurrent jurisdiction on the points and matters in issue in the first suit.[12]

The elements of res judicata are: (1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second action, identity of parties, subject matter and causes of action.[13]

In the instant case, there is no dispute as to the existence of the first three elements. Likewise, there is no issue as

to the identity of the parties in the two actions. Hence, the identity of the subject matter and the identity of causes of action between the first case of annulment of title and declaration of sale as equitable mortgage (Civil Case No. 47-M-2000) and the second case of reimbursement of expenses as builders in good faith are the only remaining areas of concern to tackle with reference to the issue of *res judicata*.

Regarding the subject matter, we rule that there is no identity. The subject of an action is defined as the matter or thing with respect to which the controversy has arisen, concerning which a wrong has been done,[14] and this ordinarily is the property or the contract and its subject matter or the thing in dispute.[15] In the case of annulment of title and declaration of sale as equitable mortgage, the subject matter is the contract of sale over the subject property while that of the case of reimbursement of expenses is the expenses incurred by the plaintiffs-appellants for the repair and construction of pig pens on the subject property they believed that they owned. Considering, therefore, that the subject matter of Civil Case No. 47-M-2000 is different from the subject matter of the instant case, it is readily apparent that there is no identity of subject matter between the two cases.

Accordingly, it would be a plausible conclusion that there is also no identity of causes of action. A cause of action is the act or omission by which a party violates the legal right of the other.[16] Hornbook is the rule that identity of causes of action does not mean absolute identity; otherwise, a party could easily escape the operation of *res judicata* by changing the form of the action or the relief sought. The test to determine whether the causes of action are identical is to ascertain whether the same evidence will sustain both actions, or whether there is an identity in the facts essential to the maintenance of the two actions. If the same facts or evidence would sustain both, the two actions are considered the same, and a judgment in the first case is a bar to the subsequent action. Hence, 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. Among the several tests resorted to in ascertaining whether two suits relate to a single common cause of action are: (1) whether the same evidence would support and sustain both the first and second causes of action; and (2) whether the defenses in one case may be used to substantiate the complaint in the other. Also fundamental is the test of determining whether the cause of action in the second case existed at the time of the filing of the first complaint.[17]

In the first action of annulment of title and declaration of sale as equitable mortgage, the underlying objective or relief sought is the adjudication of the ownership of the subject property and the declaration of sale to be only an equitable mortgage while in the second action of reimbursement of expenses, plaintiffs-appellants endeavored to be compensated for the expenses they incurred in improving the subject property when they are still the owners thereof. Thus, it is plain obvious that the evidence presented in the first action would not be the ones used in the second action as the latter would concentrate more on plaintiffs-appellants' entitlement as supported by the receipts of construction cost.

We would like to point out also that the cause of action in the second suit only materialized when the ownership of the subject property reverted back to the defendant-appellee by virtue of the final decision[18] declaring the sale to be a mere equitable mortgage. Plaintiffs-appellants would not, at all, seek for any reimbursement had they were still and declared to be the owners of the subject property. Neither can they ask in the first case their claim for expenses since it would be a position detrimental to their cause as they are asserting that the contract of sale should be upheld. Therefore, while the two cases involve the same set of facts (same parties and subject property), it does not necessarily follow that the plaintiffs-appellants' case is already barred.

WHEREFORE, premises considered, the instant appeal is GRANTED. The assailed Order dated 24 March 2011 of the Regional Trial Court is REVERSED AND SET ASIDE.

Let the original records of Civil Case No. 206-M-2009 be REMANDED to the court of origin, Regional Trial Court of Malolos City, Bulacan, Branch 82, which is DIRECTED to calendar Civil Case No. 206-M-2009, conduct further proceedings and take appropriate action thereon with reasonable dispatch.

SO ORDERED.

Dimaampao, (Chairperson), and Sadang, JJ., concur.

[1] Rollo, pp. 26-32

[2] Records, Complaint, p. 3-4

[3] Id, pp. 3-8

[4] Id., pp. 75-81

[5] Id., pp. 82-96

[6] Id., p. 97

[7] Id., pp. 16-22

[8] Id., pp. 64-74

[9] Id., pp. 98-102

[10] Supra on note 1

[11] Rollo, p. 15

[12] Spouses Fernando Torres and Irma Torres vs. Amparo Medina and the Ex-Officio Sheriff of the RTC of Quezon City, G. R. No. 166730, March 10, 2010

[13] Id.

[14] Spouses Nelson Villanueva and Myra Villanueva vs. The Court of Appeals, et al., G. R. No. 163433, August 22, 2011

[15] Bachrach Corporation vs. Court of Appeals, G. R. No. 128349, September 25, 1998, 296 SCRA 487.

[16] Section 2, Rule 2, Rules of Civil Procedure

[17] Jesse Yap vs. Court of Appeals, et al., G. R. No. 186730, June 13, 2012, 672 SCRA 419.

[18] Supra on note 6

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