

ALEJO ABES, ET AL., PLAINTIFFS AND APPELLANTS VS. TOMAS RODIL AND CATALINA CRUZ, DEFENDANTS AND APPELLEES.

G.R. No. L-20996. July 30, 1966

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Suit for reconveyance and damages.[1] Lots 3417, 3423, 3424, 3753, and 3754 of the Peñaranda (Nueva Ecija) Cadastre are involved. On defendants' motion to dismiss grounded on bar by prior judgment, the case was dismissed. Offshot is plaintiffs' direct appeal to this Court.

The history of this case is reflected in the following:

In the Peñaranda Cadastral proceedings,[2] the above lots were claimed in ownership by defendant spouses Tomas Rodil and Catalina Cruz. Alejandro Abes, plaintiffs', ancestor and from whom they claim right of ownership by descent, also appears as claimant to the said lots.[3]

On October 11, 1958, the cadastral court adjudicated the lots aforesaid to defendant spouses. Torrens title O-1719 was issued on December 10, 1958 in pursuance of this decision.

On February 26, 1959, the heirs of Alejandro Abes lodged in court a petition for review of the registration decree, planted upon the ground "that the petitioners are the true owners and are the ones in actual legal possession of the aforesaid land and that the award of said lots to claimant-spouses was secured thru fraud." The cadastral court gave due course to the petition, set the case for hearing. Oral and documentary evidence were presented by the petitioning heirs of Alejandro Abes. In an order dated July 7, 1961, the cadastral court found, after a review of the evidence, that the petitioning heirs "failed to overcome the evidence of the claimants adjudicatees, and denied the petition for review.

No appeal was taken from the July 7, 1961 order.

Instead, on September 4, 1961, plaintiffs, heirs of Alejandro Abes, sued the registered owners, defendants, the Rodils.[4] This time, they asked for a reconveyance by defendants to them of the titled properties with damages, upon the averment that defendants procured registration of the land "thru fraud, misrepresentation and the use of falsified deeds of sale". Essentially, this is the same ground of fraud they urged in their petition for review of the cadastral decree. Defendants met this complaint with a motion to dismiss upon the ground of *res judicata*. And the court, on December 13, 1962, dismissed the herein complaint, with costs. A move to reconsider was thwarted in the court's order of January 16, 1963. The orders of December 13, 1962 and January 16, 1963 just mentioned are challenged by plaintiffs in the appeal now before us.

1. Has *res judicata* set in? A rule echoed and re-echoed through the cases is that to set up *res judicata* as a bar, the following requisites must concur: "(a) the judgment or order invoked as *res judicata* must be final; (b) the court rendering said judgment or order must have jurisdiction of the subject matter and of the parties; (c) said judgment or order must be on the merits; and (d) between the first case in which the judgment or order was rendered and the

second case in which said judgment or order is invoked as *res judicata*, the following identities are present: (i) identity of parties, (ii) identity of subject matter and (iii) identity of cause of action." [5] Here, in the cadastral case, both the judgment and the order denying Plaintiffs' petition for review, are final; the jurisdiction of the cadastral court both on the subject matter and parties is beyond debate. For, defendants, and Alejandro Abes, plaintiffs' predecessor, were claimants of the same lots in said cadastral case; and the present plaintiffs were the petitioners for review in the same case. The original judgment in the cadastral case is on the merits. There, defendant spouses proved their ownership over the properties. By reason thereof, the two were issued their Torrens title. In the petition for review of the cadastral decree, the heirs of Alejandro Abes and the same defendants already battled over the question of ownership. Defendants were the prevailing party. It thus results that there was identity of parties, identity of subject matter and identity of cause of action. *Res judicata* perfectly fits into this case. The present action was properly dismissed.

2. The original cadastral proceeding is one in rem. There, the whole world, including the present plaintiffs, were drawn in as parties. Of course, the present action is for a reconveyance of the same properties. This label—reconveyance—will not mislead. The form of action may be distinct. But, at bottom, the point or question litigated in the original cadastral case and in the present is the same—ownership. Here, plaintiffs can no longer claim that they are the owners. Neither can they be heard to say that defendants are mere trustees. Because, in the cadastral order denying their petition for review, their adversaries—the defendants—were declared owners in fee simple. And, that order has become final.

The test to determine the existence of *res judicata* is simply this: "Would the same evidence support and establish both the present and the former cause of action?" [6] Here, the answer is in the affirmative. The evidence both in the cadastral proceedings and in the present reconveyance case, is directed at the question of ownership. It was held that where the first case is one for re-ivindicación and the other for partition, the title of the case is unimportant. For, the same evidence would support the one and the other. [7] A similar rule obtain where the former cases were re-ivindicatory in character and the second are land registration proceedings. [8] Another example: The first case was for consolidation of title of the assignee in the land registration proceedings. This was objected to upon the ground that the deed of assignment was invalid as *pactum commissorium*. The court gave due effect to said document and ordered that assignors' titles be cancelled and new ones issued to the assignee. The second was an action for reformation upon the averment that the deed of assignment mentioned in the first case was an equitable mortgage. This Court declared that the issue in both suits is "whether the deed of assignment vested in Monte de Piedad the ownership of the lots," and held that the second action was barred by previous adjudication in the land registration case. [9] And where, as here, fraud was alleged in the first case and the same fraud was relied upon in the second, the judgment in the former case operated as *res judicata*. [10]

The foregoing brings us to the conclusion that the present action for reconveyance will not prosper. Indeed, as we have said in a 1964 decision, [11] "what are different are the grounds upon which the annulment has been sought; but these grounds do not make for distinct causes of action".

3. Plaintiffs aver that their petition for review did not put in issue "the question of ownership or title". They claim that said petition was but a mere preliminary step to reopening and that this should not be confused with the second step which is the new trial. [12] The futility of this argument is at once apparent. Obviously, plaintiffs misconceive the reach of the court order denying their petition for relief. Read as it should be, this order consists of two portions. First, that order stated the court gave plaintiffs' petition due course and set the petition for trial. Then—and this is the substantial part of the order—it recites in detail the evidence oral and documentary adduced. In fact, the court analyzed the testimony of the witnesses presented by plaintiffs on the question of ownership and possession and even cited the fact that said plaintiffs "only began paying taxes over the lots in question on March

9, 1959 or one month before the filing of their petition for review." [13] If plaintiffs in that hearing withheld evidence, that is to be reckoned against them. They have been given full opportunity to present their side on the issue of ownership. Said order declared that their evidence then presented "failed to overcome the evidence" of defendants. [14] That order has swept away every defense plaintiffs could have raised against defendants' claim of ownership. [15]

In the end, we say that abhorrence to embarrassing conflict of judicial findings and a healthy respect for final judgments are enough justification for the doctrine of res judicata, which is clearly operative in the case at bar.

In consequence, the orders appealed from are hereby affirmed. Costs against plaintiffs. So ordered.

Concepción, C. J., Reyes, J. B. L., Barrera, Dizon, Regala, Makalintal, Bengzon,, J. P. and Zaldivar, JJ., concur.

Orders affirmed.

[1] Civil Case No. 3728, Court of First Instance of Nueva Ecija, entitled "Alejo Abes, et al., plaintiffs, vs. Tomas Rodil and Catalina Cruz, defendants."

[2] Cadastral Case No. 61, LRC Record No. 1369, Court of First Instance of Nueva Ecija.

[3] R. A. p. 23.

[4] Civil Case No. 3728, supra, the present case.

[5] Nuevas, Remedial Law, 1960 edition, p. 374, citing San Diego vs. Cardona, 70 Phil. 281; Valdez vs. Pineda, 89 Phil. 547; Lapid vs. Lawan, G.R. No. L_10686, May 31, 1957; Aguilar vs. Gamboa, 103 Phil. 183; Aguirre vs. Atienza, 104 Phil. 477.

[6] Peñalosa vs. Tuason, 22 Phil. 303, 322. This yardstick was recently availed of in Garcia vs. Court of Appeals, et al., L-19783, July 30, 1965 and Philippine Farming Corporation, Ltd., etc., vs. Llanos, et al., L-21014, August 14, 1965.

[7] De Leon vs. Vda. de Padua. 75 Phil. 519, 552, 553, citing Donato vs. Mendoza, 25 Phil. 57, 63.

[8] Kidpalos, et al., vs. Baguio Gold Mining Company, L-19940 to L-19944, August 14, 1965.

[9] Franco, et al., vs. Monte de Piedad and Savings Bank, L-17610, April 22, 1963. Italics ours.

[10] San Diego etc., vs. Cardona, et al., 70 Phil. 281, 284.

[11] De Goma vs. De Goma, et al., L-18739, December 28, 1964.

[12] Appellant's Brief, p. 10.

[13] R. A., p. 25.

[14] Id., p. 25.

[15] Philippine National Bank vs. Barreto, et al., 52 Phil. 818, 825.

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