

**BEATRIZ GALLANO-FONTILLAS AND JALANDONI FONTILLAS,
PLAINTIFFS-APPELLANTS, VS. VICTOR ABLIR, POLICARPIO ABLIR,
VIRGILIO ABLIR, LYDIA ABIERA, NICHOLAS ABLIR, JR., ELIZABETH
A. TOR...**

Ponente: LOPEZ, J.

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LOPEZ, J.:

Before Us is an Original Appeal[1] from the Decision[2] of the Regional Trial Court (RTC) of Negros Oriental, Branch 40, Dumaguete City dated April 26, 2011 in Civil Case No. 2008-14279 for Declaration of Nullity of Extrajudicial Settlement and Sale, Use of Spurious Public Documents, Damages and Attorney's Fees which dismissed the case.

The Facts

On June 5, 2008, plaintiffs-appellants Beatriz Gallano-Fontillas and Jalandoni Fontillas ("Fontillases" for brevity) filed a Complaint[3] for Declaration of Nullity of Extrajudicial Settlement and Sale, Use of Spurious Public Documents, Damages and Attorney's Fees against defendants-appellees Victor Ablir, Policarpo Ablir, Virgilio Ablir, Lydia A. Abiera, Nicolas Ablir, Jr., Elizabeth A. Torralba and Evelyn Ablir ("Ablirs" for brevity). Plaintiffs-appellants Fontillases alleged as follows:

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3. That [plaintiffs'] predecessors-in-interest are Florencio Fontillas and Epifanio Fontillas whose father is Perfectuo Fontillas.

4. That Florencio Fontillas and Epifanio Fontillas are the legitimate and registered owners of Lot No. 1030 and Lot No. 1035 of Sibulan Cadastre evidenced by Original Certificate of Title No. OV-775 and Original Certificate of Title No. OV-764.

5. That Florencio Fontillas died without issue. Epifanio Fontillas on the other hand died leaving behind his three (3) children namely: Mauro Fontillas, Diega Fontillas and Isabel Fontillas.

6. That Diega Fontillas and Isabel Fontillas died without issue while Mauro Fontillas was survived by his two (2) children, namely: Beatriz Gallano-Fontillas and Jalandoni Fontillas, [plaintiffs] herein.

7. That plaintiffs have inherited Lot No. 1030 and Lot No. 1035 from their predecessors-in-interest and they have been in open, public, uninterrupted, adverse and continuous possession and ownership thereof since time immemorial until the present.

8. That plaintiffs recently discovered the existence of two (2) spurious and utterly fabricated public documents in favor of the defendants entitled Extra-judicial Settlement and Sale dated October 17, 1952 and July 7, 1956, respectively, allegedly signed by a certain Mauro Fontillas, Rita Dican and Isabel Fontillas as Heir-Vendors of Florencio Fontillas over Lot 1030 and selling the same lot to defendant Policarpo Ablir xxx

9. That defendants' unlawful and hideous design to grab Lot No. 1030 and Lot No. 1035 from plaintiffs is

shown in the fact that the signatures of Mauro Fontillas, Rita Dicen and Isabel Fontillas appearing in the above-mentioned two (2) documents were all falsified.

10. That further, [defendants] employed fraud and grave misrepresentations in the said documents particularly as regards the number of heirs of Epifanio Fontillas as shown in the fact that in the first document entitled Extrajudicial Settlement and Sale dated October 17, 1952 defendants mentioned and acknowledged the three (3) heirs of Epifanio Fontillas namely: Mauro, Diega and Isabel while in the second document entitled Extrajudicial Settlement and Sale dated July 7, 1956 defendants mentioned only of Isabel Fontillas as the “only heir” of Epifanio Fontillas in their desperate desire to unlawfully obtain and divest plaintiffs of their peaceful possession and ownership of Lot No. 1030 and Lot No. 1035.

11. That in fact, in order to hide their fraudulent acts and malicious design against plaintiffs, defendants surreptitiously introduced as evidence the second document only dated July 7, 1956 to support their false claim in Civil Case No. 11853 that they are the owners of the subject lot.

12. That [plaintiffs] have personal knowledge that neither their father, Mauro Fontillas, nor Rita Dicen nor Isabel Fontillas sold Lot No. 1030 in favor of defendant Policarpo Ablir in 1952 and 1956 considering that since 1952 and prior thereto and until the present, plaintiffs have been in continuous possession and use of the subject lot in the concept of owner and against the whole world as it had been passed on to them by virtue of inheritance upon the death of their above-mentioned predecessors-in-interest.

13. That in view of the falsity of the said documents, there is a need for the court to declare the same null and void ab initio.

14. That due to defendants’ evil, malicious and unjust acts, plaintiffs suffered and continues to suffer mental anguish, severe anxiety and sleepless nights which may be quantified in an amount not less than P50,000.00; and was forced to litigate this suit for an agreed attorney’s fee of P50,000.00 and they expect to incur litigation expenses of not less than P10,000.00.

In their Answer (With Affirmative Defenses and Counterclaim),[4] defendants-appellees alleged as follows:

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2. [Lots 1030 and 1035] were involved in Civil Case No. 11853 in which their ownership was contested between the Fontillases (plaintiffs in the present case) and the Ablirs (defendants in the present case) before the RTC of Negros Oriental, Branch 35 presided by the then Executive Judge Victor C. Patrimonio.

3. In his Decision dated January 27, 2003 xxx , Judge Patrimonio declared the Ablirs (now defendants) as owners of said Lots Nos. 1030 and 1035, specifically saying “Clear as crystal water, the plaintiffs are the owners of Lots Nos. 1035 and 1035” xxx

4. The Court stated in the Decision xxx that the ownership of the Ablirs was established “by clear and convincing evidence” consisting of two public instruments, namely, EXTRAJUDICIAL SETTLEMENT AND SALE dated July 7, 1956 xxx and EXTRAJUDICIAL SETTLEMENT AND SALE dated October 1, 1956 [sic] xxx.

5. The Decision further stated that the Fontillases are builders in bad faith and “whatever structures they have established thereon are hereby ordered demolished at their expense...”

6. On appeal by the Fontillases, the Court of Appeals in a Decision promulgated on July 15, 2005 xxx AFFIRMED the RTC Decision in toto xxx.

7. The Fontillases appealed the CA Decision to the Supreme Court by the expedient of a Petition for Review.

8. The Supreme Court denied said Petition for Review in a Resolution rendered on June 14, 2006, incorporated

in the SC Entry of Judgment xxx, stating, “In any event, petitioners failed to sufficiently show that the Court of Appeals committed any reversible error in the challenged decision and resolution as to warrant the exercise of this Court’s discretionary appellate jurisdiction.”

9. In view of the finality of the Decision, the records were remanded to the Regional Trial Court of Negros Oriental for execution and satisfaction of judgment.

10. A writ of execution xxx dated January 18, 2008 was issued by Judge Fe Lualhati Bustamante of RTC Branch 33

11. Pursuant to the order incorporated in the Decision to demolish all buildings and structures built on Lots Nos. 1030 and 1035 by the Fontillases who, the Court, specifically ruled to be “builders in bad faith,” the Ablirs filed a Motion for Demolition, xxx, resolution of which is still awaited [sic].

12. The real purpose of plaintiffs in the present case is to annul the aforecited Decision of the RTC, the Court of Appeals, and the Supreme Court, which had long become final and in fact already executed, via the “roundabout” way of seeking and praying the annulment of certain documents which were already treated in the Final Decision which reached the level of the Supreme Court.

13. The “roundabout” method employed by the Fontillases is aggravated by the fact that they deliberately omitted to mention the Decision which was the product of the common opinion of three high courts, the RTC, the CA, and the Supreme Court. This is fraud and contemptuous act of the first order. Plaintiffs should be tried and convicted of contempt of court.

14. From the foregoing, it is clear that the present action is barred by RES JUDICATA. Moreover, the RTC, with all due respect, has NO JURISDICTION to annul a final Decision which was upheld by the Court of Appeals and the Supreme Court. Further, the plaintiffs’ action clearly states NO CAUSE OF ACTION because the documents sought to be annulled were previously definitively treated by the Supreme Court.

15. The present case should be dismissed outright after a preliminary hearing of the preliminary defenses set forth above.

Plaintiffs-appellants filed a Motion for Leave to Amend Complaint w/ Attached Amended Complaint[5] which was granted by the court. In the Amended Complaint,[6] plaintiffs-appellants alleged that defendants-appellees filed a case against plaintiffs-appellants docketed as Civil Case No. 11853 to be declared as owners of the subject lots using in evidence the said falsified documents and restraining plaintiffs from possessing the subject properties; that a judgment by default dated January 27, 2003 was rendered by the RTC Branch 33, Dumaguete City against the plaintiffs-appellants in view of the failure of their previous counsel to file an Answer on time; thus plaintiffs were not able to present their evidence thereto.

Plaintiffs-appellants further alleged that the Decision in Civil Case No. 11853 which declared the defendants-appellees as the owners of the subject lots had become final and executory, however, they are still contesting the validity and legality of the said Decision thru a Petition for Certiorari with Prayer for TRO and Injunction pending before the Court of Appeals on the ground that the RTC, Branch 33, did not acquire jurisdiction over the person of he indispensable party defendants-appellees who failed to sign the said complaint nor execute a Special Power of Attorney in favor of their counsel; that in effect, the RTC, Branch 33, tried the said case without jurisdiction; and yet, on January 18, 2008, the RTC, Branch 33, Dumaguete City had issued a Writ of Execution to the said Decision whose bases were the falsified documents subject of the instant complaint.[7]

Defendants-appellees filed a Supplemental Answer[8] adopting their previous Answer as their basic answer to the Amended Complaint. Defendants-appellees filed a Motion to Dismiss (Based on Defendants’ Affirmative

Defenses)[9] alleging that the present action is barred by res judicata; that the RTC has no jurisdiction to annul a final Decision which was upheld by the Court of Appeals and the Supreme Court; and that plaintiffs' action clearly states no cause of action because the documents sought to be annulled were previously definitively treated by the Supreme Court.

In an Order[10] dated February 8, 2010, the RTC ruled that the affirmative defense of res judicata in the aspect of "bar by prior judgment" is considered to be without basis; nevertheless, this does not foreclose the issue of res judicata in the aspect of conclusiveness of judgment, if it can be demonstrated that the subject documents sought to be annulled in this case were the very same documents which were passed upon in Civil Case No. 11853. Defendants-appellees filed a Motion for Reconsideration[11] of the above Order which was denied by the RTC in an Order[12] dated March 29, 2010.

On May 24, 2010, the RTC issued an Order[13] allowing the plaintiffs to present evidence ex parte upon discovery that the defendants failed to file their Pre-Trial Brief. Plaintiffs-appellants presented Beatriz Fontillas Gallano as witness

On April 26, 2011, the Regional Trial Court rendered the assailed Decision,[14] the dispositive portion of which states:

WHEREFORE, premises considered, the case is DISMISSED.

SO ORDERED.

The RTC ruled that there exists res judicata on the basis of conclusiveness of judgment[15] and that the evidence on record do not justify a judgment to declare the Extrajudicial Settlement and Sale dated October 17, 1952 and July 7, 1956 as null and void.[16]

Plaintiffs-appellants filed a Motion for New Trial[17] which was denied by the RTC in an Order[18] dated June 15, 2011.

Hence, this appeal with the following Assignment of Error:[19]

- THE COURT A QUO ERRED IN RULING THAT THERE WAS RES JUDICATA IN THE ASPECT OF CONCLUSIVENESS OF JUDGMENT HENCE THE DISMISSAL OF THE CASE;
- THE COURT A QUO ERRED IN RULING THAT THE EXTRAJUDICIAL SETTLEMENT AND SALE DATED OCTOBER 17, 1952 AND JULY 7, 1956, WERE NOT FRAUDULENTLY ISSUED.
- THE COURT A QUO ERRED IN DENYING PLAINTIFFS-APPELLANT'S MOTION FOR NEW TRIAL.

Plaintiffs-Appellants' Arguments

Plaintiffs-appellants argue that a judgment by default dated January 27, 2003 was rendered by RTC Branch 33, Dumaguete City, hence, the documentary evidence which Civil Case No. 11853 was based on were never passed upon by the trial court at that time; that plaintiffs-appellants (defendants in Civil Case No. 11853) were deprived of their opportunity to defend themselves; that the judgment was not based on the merits of the case where both parties were given their respective opportunities to ventilate their causes and defend themselves.[20]

Plaintiffs-appellants further contend that the authenticity, genuineness and due execution of the Extrajudicial Settlement and Sale dated October 17, 1952 and July 7, 1956, the same documents subject of this appeal, were never in issue in Civil Case No. 11853; that any supposed re-litigation of the same in this case is unfounded despite several quoted rulings in the Decision; and that res judicata in the concept of conclusiveness of judgment is inapplicable.[21]

Further, plaintiffs-appellants argue that no less than the daughter of Mauro Fontillas, the owner of Lot No. 1030, identified her father's alleged signature in the Extrajudicial Settlement and Sale dated October 17, 1952 to be not genuine; that such signature as appearing in the same document is not Mauro Fontilla's signature; that it may be self-serving at first glance but it cannot be ignored that witness Beatriz Gallano-Fontillas is in the best position to know whether or not the signature on the documents is his late father's or not since she only has one sibling; that she is further competent enough to witness and state that her late aunt, Isabel Fontillas, whose alleged signature appeared in the Extrajudicial Settlement and Sale dated July 7, 1956 has died a decade before such signature appeared on such document and before the cases were even filed; that Isabel Fontilla's death has been of family knowledge; and that her testimony was unopposed by defendants-appellees despite the latter being given a chance. [22]

Plaintiffs-appellants allege that when the court a quo denied plaintiffs-appellants' motion for new trial, it deprived them of their right to fully present their evidence in support of their case; that it was properly and sincerely explained through an affidavit attached to the motion on why plaintiff-appellant/witness Jalandoni Fontillas failed to testify during the trial of the case; that he suffered an unanticipated heart stroke during the trial and was not able to do his normal activities; that due to great financial constraints, a large part of which was due to the long litigation of their cases in connection to the lots subject of this case, he was not able to even obtain proper medical care and had to stay at home; that he was not confined in a hospital which explains the lack of medical certificate.[23]

Defendants-Appellees' Arguments

Defendants-appellees argue that that in Civil Case No. 14279, Lots 1030 and 1035 were declared to be owned by the Ablirs (defendants-appellees) and that plaintiffs-appellants were also declared as possessors in bad faith; that the RTC Decision was based on two (2) deeds of extrajudicial settlement and sale dated October 17, 1952 and July 7, 1956, in which the predecessor of the Fontillases sold Lots 1030 and 1035 to the predecessor of the Ablirs; that the RTC Decision was affirmed by the Court of Appeals and the Supreme Court; and that the Decision became final and was executed, which included the demolition of the house of plaintiffs-appellants Fontillases.[24]

Defendants-appellees contend that the Fontillases did not assail the validity of the deeds of extrajudicial settlement and sale in the first case (Civil Case No. 11853); that the Decision of the RTC, CA and the SC that the two deeds of extrajudicial settlement and sale are the valid and legal basis of the ownership of the defendants-appellees Ablirs is conclusive and covered by the rule on res judicata; that such being the case, the present case to declare the deeds of extrajudicial settlement null and void does not deserve judicial attention.[25]

Defendants-appellees further argue that the lower court correctly ruled that even if the issue of the deeds of extrajudicial settlement and sale could be validly opened again, plaintiffs-appellants were not able to prove their allegation that the execution of the said documents was attended by fraud.

The Issues

The issues to be resolved in this appeal are:

- 1) Whether or not the judgment by default rendered in Civil Case No. 11853 is considered a judgment on the merits.
- 2) Whether or not the action is barred by reason of res judicata.

The Court's Ruling.

The appeal is unmeritorious.

Civil Case No. 11853 in the Regional Trial Court, Branch 35, Dumaguete City was for Declaration of Ownership, Injunction, and Damages, with Preliminary Attachment filed by Victor Ablir, Virgilio Ablir, Lydia A. Abiera, Nicolas Ablir, Jr., Elizabeth A. Toralba, Evelyn Ablir, and Policarpio Ablir (exactly the same defendants-appellees herein) against Jalandoni Fontillas, Beatriz Fontillas-Gallano and Luisito Fontillas-Katada (the first two of which are the same plaintiffs-appellants in this case). In the said case, the RTC declared the Fontillases in default. The Ablirs presented evidence ex parte and the Court rendered a Decision[26] dated January 27, 2003, in their favor, the dispositive portion of which states:

WHEREFORE, premises considered the plaintiffs [Ablirs] having established by clear and convincing evidence that they have rights, interests and participations over said Lot Nos. 1030 and 1035, Sibulan Cadastre, and such rights have been violated by the defendants [Fontillases], a permanent injunction is hereby issued directing the defendants, their agents or authorized representatives to cease and desist from disturbing plaintiffs in their ownership over said property and they, their agents or authorized representatives are likewise directed to cease and desist from further occupying a portion of Lot No. 1030 and whatever structures they have established thereon are hereby ordered demolished at their expense since they were builders in bad faith.

SO ORDERED. (Emphasis Supplied)

The same Decision was appealed by the Fontillases to the Court of Appeals (CA) in CA-G.R. CV No. 78377 wherein the CA affirmed the lower court's Decision, in the following manner:

Appellees cause of action is for declaration of ownership as evidenced by two (2) Extrajudicial Settlement and Sale dated July 1, 1956 and October 1, 1965 respectively. These two Extrajudicial Settlement and Sale under Sec. 22, Rule 132, Rules of Court, are considered ancient documents, to wit:

Sec. 22 – “Where a private writing is more than thirty years old, is produced from a custody in which it would naturally be found if genuine, and is unblemished by any alterations or circumstances of suspicion, no other evidence of its execution and authenticity need be given.

The foregoing provision which embodies the evidentiary rule on ancient documents rests on the theory that the document proves itself.

xxx (Emphasis Supplied)

The same case was brought to the Supreme Court and the records show that the Judicial Records Office of the Supreme Court issued an Entry of Judgment,[27] which provides:

This is to certify that on June 14, 2006 a resolution rendered in the above-entitled case was filed in his Office, the dispositive part of which reads as follows:

“G.R. No. 171439 (Jalandoni Fontillas, et al. vs. Victor Ablir, et al.). – xx xx xx xx xx. On the basis thereof, the Court resolves to DENY the instant petition for review on certiorari of the decision and resolution dated July 15, 2005 and January 26, 2006, respectively, of the Court of Appeals in CA GR CV No. 78377 for failure to give an explanation why service was not done personally as required by Sec. 11, Rule 13 in relation to Sec. 3, Rule 45 and Sec. 5(d), Rule 56.

In any event, petitioners failed to sufficiently show that the Court of Appeals committed any reversible error in the challenged decision and resolution as to warrant the exercise of this Court's discretionary appellate jurisdiction.”

and that the same has, on October 31, 2006 become final and executory and is hereby recorded in the Book of Entries of Judgments.

A Writ of Execution[28] dated January 18, 2008 was issued by the RTC, Branch 33, Dumaguete City in Civil Case No. 11853.

Based on the foregoing, We do not find any error on the part of the lower court in denying plaintiffs-appellants' Complaint on the ground of res judicata.

Default Judgment is a Valid Judgment

Under the 1997 Rules of Civil Procedure, a default judgment may be rendered against a defending party who fails to answer within the time allowed by the Rules. The specific provision in the Rules provides:

Rule 9

Effect of Failure to Plead

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Sec. 3. Default; declaration of. – If the defending party fails to answer within the time allowed therefore, the court shall, upon motion of the claiming party with notice to the defending party, and proof of such failure, declare the defending party in default. Thereupon, the court shall proceed to render judgment granting the claimant such relief as his pleading may warrant, unless the court in its discretion requires the claimant to submit evidence. Such reception of evidence may be delegated to the clerk of court.

The validity of a default judgment depends on the validity of the default order issued prior to the judgment by default.

The Decision rendered by the RTC, Branch 35, Dumaguete City, in Civil Case No. 11853 which has become final and executory, discussed the declaration of default made therein, to wit:

Likewise, on March 20, 1997, defendants filed a motion praying that they be granted a period of fifteen (15) days from March 18, 1997 within which to file their responsive pleading. Said motion was not acted by the court and on August 6, 1998, plaintiffs filed a motion to declare the defendants in default because after filing their said motion for extension of time on March 18, 1987, they have not filed any responsive pleading. Defendants opposed plaintiffs' motion contending that the court has not acted on their motion for extension of time to file responsive pleading, that they have a meritorious defense and that based on the case of Republic vs. Sandiganbayan, 239 SCRA 29, "it is the avowed policy of the law to accord both parties every opportunity to pursue and defend their case in the open and relegate technicality to the background in the interest of substantial justice."

On September 3, 1998, the court issued an order granting plaintiffs' motion to declare the defendants in default.[29]

The following requirements for the declaration of default were complied with:

- (1) the claiming party must file a motion asking the court to declare the defending party in default;
- (2) the defending party must be notified of the motion to declare him in default;
- (3) the claiming party must prove that the defending party has failed to answer within the period provided by the Rule.[30]

Defendants' argument therein that the court has not acted on their motion for extension of time to file responsive pleading cannot be given weight because it is a well-settled rule that no party should assume that his motion for extension would be granted. The best thing that should have been done was to file the Answer notwithstanding or while awaiting the Order of the court on the motion. However, the defendants failed to do so until plaintiffs, in the same case, filed a motion to declare defendant in default. The interval of time from the filing of the motion for extension of time to file responsive pleading (March 20, 1997) until the filing of the motion to declare defendant in default (August 6, 1998) is already more than four months. It is, therefore, not erroneous for the lower court to grant the motion to declare defendant in default.

The Default Judgment was a Judgment on the Merits

A default judgment may be rendered granting the claimant such relief as his pleading may warrant. The presentation of evidence is not mandatory. However, in Civil Case No. 11853, the trial court deemed it proper to allow the plaintiffs therein to present their evidence *ex parte* to support their cause of action for declaration of ownership of Lots Nos. 1030 and 1035. The Decision rendered by the RTC in Civil Case No. 11853 was supported both by the allegations in the Complaint and the evidence on record. Furthermore, the Decision was affirmed by the Court of Appeals and the appeal made by the Fontillases to the Supreme Court was denied.

A judgment is on the merits of the case when it determines the rights and liabilities of the parties based on the ultimate facts as disclosed by the pleadings or issues presented for trial. It is not necessary that a trial, actual hearing or argument on the facts of the case ensued. For as long as the parties had the full legal opportunity to be heard on their respective claims and contentions, the judgment or order is on the merits.[31]

“Merits” has been defined as a matter of substance in law, as distinguished from a matter of form; it refers to the real or substantial grounds of action or defense, as contrasted with some technical or collateral matter raised in the course of the suit. A judgment is “on the merits” when it amounts to a legal declaration of the respective rights and duties of the parties, based upon the disclosed facts.³² Indeed, in Civil Case No. 11853, the RTC, as affirmed by the CA and SC, made a declaration that the Ablirs have established their rights, interests and participations over Lot Nos. 1030 and 1035.

The present case is barred by *res judicata*

We agree with the lower court that plaintiffs-appellants’ action is barred by *res judicata* on the basis of conclusiveness of judgment.

Res judicata embraces two concepts: (1) bar by prior judgment as enunciated in Rule 39, Section 47(b) of the Rules of Civil Procedure; and (2) conclusiveness of judgment in Rule 39, Section 47(c).[33]

There is “bar by prior judgment” when, as between the first case where the judgment was rendered and the second case that is sought to be barred, there is identity of parties, subject matter, and causes of action. In this instance, the judgment in the first case constitutes an absolute bar to the second action. But where there is identity of parties in the first and second cases, but no identity of causes of action, the first judgment is conclusive only as to those matters actually and directly controverted and determined and not as to matters merely involved therein. This is the concept of *res judicata* known as “conclusiveness of judgment.” Stated differently, any right, fact or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which judgment is rendered on the merits is conclusively settled by the judgment therein and cannot again be litigated between the parties and their privies, whether or not the claim, demand, purpose, or subject matter of the two actions is the same.[34]

Thus, if a particular point or question is in issue in the second action, and the judgment will depend on the determination of that particular point or question, a former judgment between the same parties or their privies will be final and conclusive in the second if that same point or question was in issue and adjudicated in the first suit. Identity of cause of action is not required but merely identity of issue.[35]

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. Should identity of parties, subject matter, and causes of action be shown in the two cases, then *res judicata* in its aspect as a “bar by prior judgment” would apply. If as

between the two cases, only identity of parties can be shown, but not identical causes of action, then *res judicata* as “conclusiveness of judgment” applies.[36]

The principle of *res judicata* in the concept of “conclusiveness of judgment” clearly applies in this case. First, the Decision in Civil Case No. 11853 has become final and executory. Second, it was rendered by a court of competent jurisdiction. Third, the Decision was a judgment on the merits as discussed above. Finally, there is identity of parties. Although the causes of action are not identical, the subject matter in the present case deals with a subject matter already ruled upon in Civil Case No. 11853.

Civil Case No. 11853 is for the declaration of ownership of Lots Nos. 1030 and 1035 on the basis of the two Extrajudicial Settlement and Sale. In the present case, plaintiffs-appellants are now seeking the declaration of nullity of the two Extrajudicial Settlement and Sale anchored on the Fontillases’ claim of ownership over Lots 1030 and 1035. Upon an analysis of the present cause of action of the Fontillases, plaintiffs-appellants alleged that they have inherited Lot No. 1030 and Lot No. 1035 from their predecessors-in-interest. Clearly, they are seeking the declaration of nullity of the aforementioned documents because they claim to be the owners of the properties in question, specifically Lots Nos. 1030 and 1035. If the present action is given merit, the declaration of nullity of these documents will affect the previous judgment in Civil Case No. 11853, declaring the Ablirs as the owners of Lots 1030 and 1035. Such cannot be done because it will violate the rule on finality and immutability of judgment.

Nothing is more settled in law than that once a judgment attains finality it thereby becomes immutable and unalterable. It may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land.[37] Hence, it is clear that the present action cannot prosper without affecting the disposition made by the court in Civil Case No. 11853.

It is worth noting that plaintiffs-appellants herein have filed a Petition for Administration of Lot Nos. 1030 and 1035 before the Municipal Trial Court of Sibulan, Negros Oriental but the same was dismissed on the ground of forum-shopping and pendency of another action which is Civil Case No. 11853. The Decision was appealed to the RTC of Dumaguete City Branch 37 but the latter affirmed the decision of the MTC.[38] Apparently, plaintiffs-appellants’ purpose of filing the present case is an attempt for them to claim ownership over the lots involved. Again, the action is barred by *res judicata*.

Res judicata is defined as “a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment.” According to the doctrine of *res judicata*, an existing final judgment or decree rendered on the merits, and 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 or any other judicial tribunal of concurrent jurisdiction on the points and matters in issue in the first suit. To state simply, a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on all points and matters determined in the former suit.[39]

WHEREFORE, the instant appeal is DENIED. The assailed Decision of the Regional Trial Court dismissing Civil Case No. 2008-14279 is AFFIRMED.

SO ORDERED.

Delos Santos, E.L., Chairperson., and Lagura-Yap, M.B., JJ., concur.

- [1] Rule 44, The 1997 Rules of Civil Procedure.
- [2] Rollo, pp. 26-31.
- [3] Main Record, pp. 2-6.
- [4] Id. at pp. 50-55.
- [5] Id. at pp. 147-148.
- [6] Id. at pp. 153-159.
- [7] Id. at p. 156.
- [8] Id. at p. 218.
- [9] Id. at pp. 262-265.
- [10] Id. at pp. 327-329.
- [11] Id. at pp. 338-342.
- [12] Id. at p. 360.
- [13] Id. at p. 370.
- [14] Id. at pp. 481-486.
- [15] Rollo, p. 30.
- [16] Id. at p. 31.
- [17] Main Record, pp. 488-491.
- [18] Id. at p. 501.
- [19] Rollo, p. 19.
- [20] Id. at p. 21.
- [21] Id. at p. 22.
- [22] Id. at p. 23.
- [23] Id. at pp. 23-24.
- [24] Id. at p. 39.
- [25] Id. at p. 40.
- [26] Main Record, pp. 56-63.
- [27] Id. at p. 73.
- [28] Id. at pp. 75-78.
- [29] Id. at p. 57.
- [30] *Spouses Delos Santos v. Carpio*, G.R. No. 153696, September 11, 2006.
- [31] *Perez v. Court of Appeals*, G.R. No. 157616, July 22, 2005.

- [32] Luzon Development Bank v. Conquilla, G.R. No.163338, September 21, 2005.
- [33] Rizal Commercial Banking Corporation v. Royal Cargo Corporation, G.R. No. 179756, 2 October 2009.
- [34] SSC v. Rizal Poultry and Livestock Association, Inc., G.R. No. 167050, June 1, 2011.
- [35] SSC v. Rizal Poultry and Livestock Association, Inc., supra.
- [36] SSC v. Rizal Poultry and Livestock Association, Inc., supra.
- [37] Heirs of Maximo Derla, supra.
- [38] Decision, CA – G.R. CV NO. 78377, Main Record, p. 67.
- [39] Borra v. Court of Appeals, G.R. No. 167484, September 9, 2013.

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