

**RUDY MARTIN AND CONCEPCION MARTIN-UGALDE, REPRESENTED
BY RUDY MARTIN, PLAINTIFFS-APPELLANTS, VS. AGAPITO BENITEZ,
CEFERINA BENITEZ, ALMIRA BENITEZ-ALMIROL, AND RODRIGO
BIBAS, JR...**

Ponente: LAZARO-JAVIER, A.C., J.

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LAZARO-JAVIER, A.C., J.:

This appeal assails the following issuances of the Regional Trial Court (RTC), Branch 38, San Jose City, in Civil Case No. 2011-324-SJC, entitled “Rudy Martin et. al. v. Agapito Benitez”, for recovery of property, preliminary injunction, and damages:

1. Resolution[1] dated January 25, 2013, disposing, thus:

WHEREFORE, by reason of res judicata, this case is DISMISSED.

SO ORDERED[2].

2. Resolution[3] dated April 15, 2013, denying appellants’ motion for reconsideration, viz:

WHEREFORE, in view of the foregoing premises and there being no cogent reason to disturb its earlier findings, the Court resolves to deny the instant motion.

SO ORDERED[4]

Appellants Rudy Martin and Concepcion Martin-Ugalde filed the complaint below against appellees Agapito Benitez, Ceferina Benitez-Almirol, and Rodrigo Bibas, Jr..

In their Complaint[5] dated March 31, 2011, appellants alleged:

1) They were the registered owners of a parcel of land, measuring 3,358 square meters, located in San Jose City, Nueva Ecija and covered by TCT No. 23719[6]. The land was owned and continuously possessed by their parents since time immemorial. In 1980, the land was mortgaged to a certain Atty. Carlito Frias, who never took its possession. In 2002, they redeemed and registered the land in their names. They paid property taxes thereon as evidenced by Tax Declaration No. 97-04020-00696[7]. They were up-to-date in paying real property taxes on the property.

2) They allowed appellees to occupy a portion of the land out of liberality because they were long time neighbors. Engr. Bienvenido Magtuto was able to determine the actual area occupied by appellees, as indicated in his Sketch Plan[8]. Sometime in 1990, appellees committed the following acts of encroachment: a) appellee Almira Benitez-Almirol constructed a house on a four-meter portion of the land; and b) appellees Agapito and Ceferina Benitez constructed a pig pen (42 square meters), a carabao house (252 square meters), and a store room (9 square meters). In 2004, appellee Agapito Benitez fenced in all these improvements, comprising 1,000 square meters. Appellee Rodrigo Bibas, Jr. was also constructing a 4x5 meter house beside appellee Almira Benitez-Almirol’s house. They made verbal demands on appellees in 2001 and 2004 but they were ignored.

3) In 2004, the barangay officials interceded but appellees still continued to occupy portion of the land. Appellees also put up bamboo posts and cyclone wires, depriving them and their relatives' ingress and egress on the property. Appellant Rudy Martin previously filed a complaint for accion publiciana against appellees before RTC, Branch 39, San Jose City docketed Civil Case No. SJC-1187 and entitled "Rudy Martin v. Agapito Benitez and Ceferina Benitez". By Decision[9] dated December 12, 2008, RTC-Branch 39, found for appellees, thus:

WHEREFORE, for failure of the plaintiff to institute the proper action against the defendants and for failure of the plaintiff to establish his case by mere preponderance of evidence, this Court hereby orders the DISMISSAL of the instant case.

SO ORDERED[10].

4) But the foregoing decision did not preclude the filing of the present complaint, praying for the following relief:

WHEREFORE, PREMISES (CONSIDERED), it is respectfully prayed of the Honorable Court to render judgment in favor of the plaintiffs and against the defendants and anyone claiming right under them that:

a) upon the filing of this complaint, a writ of Preliminary Injunction be issued forthwith, enjoining defendant Rodrigo Bibas, Jr. from continuing or suffering to continue the building of his residential house within the disputed property;

b) after hearing on the merits to vacate the premises and to demolish and remove the structures from said land, free from any lien and encumbrance whatsoever and to surrender peacefully the possession of the encroached premises to the plaintiffs or to their authorized representatives;

c) to remove and demolish the structures adverted at their own expense, otherwise, the removal and demolition thereof shall be charged against the defendants;

d) to pay moral damages in the amount of no less than twenty five thousand pesos (Php25,000.00) for causing the plaintiffs besmirched reputation, sleepless nights, and anxiety;

e) to pay attorney's fees and other litigation expenses incurred in connection therewith in the amount of twenty five thousand pesos (Php25,000.00).

Such other relief just and equitable in the premises are likewise prayed for[11].

In their Answer with Counterclaim[12] dated June 13, 2011, appellees averred:

a)

They had been in possession of the land since time immemorial and not by virtue of appellants' alleged liberality. They admitted making improvements on the land. They refused to heed appellants' demand to vacate because the same was without basis. Appellants did not have any right of ingress or egress on their claimed portion.

They had been in possession of the land since 1929 when appellee Agapito Benitez's father began farming the area. Their possession of the land was uninterrupted, exclusive, and notorious until 2004 when appellants started claiming the property. The trial court had no jurisdiction over the case. Appellants were barred by res

judicata, laches, and prescription from recovering title and possession.

The trial court denied appellant's application for injunctive writ under Resolution[13] dated June 14, 2011.

In their twin Motions for Substitution dated April 30, 2012[14] and July 10, 2012[15], the children of Spouses Agapito and Ceferina Benitez, namely Violeta Benitez-Gadiano, Meleciano Benitez, Teresita Benitez-Peralta, Arceli Benitez-Galapo, Felicitas Benitez, Edwin Benitez and Almira Benitez-Almirol, prayed that they be substituted as defendants, in lieu of Agapito and Ceferina Benitez who died on March 25, 2012[16] and May 22, 2012[17], respectively.

By Order[18] dated August 15, 2012, the trial court noted that among the Heirs of Spouses Agapito and Ceferina Benitez, only Meleciano, Arceli, Felicitas, Edwin and Almira consented to being represented by their parents' counsel, Atty. Manolo Soriano.

In their Motion for Hearing on the Affirmative Defense of Bar by Prior Judgment[19] dated November 14, 2012, appellees argued:

1)

Under Section 6, Rule 16 of the 1997 Rules of Civil Procedure, any ground for dismissal may be pleaded as an affirmative defense in the answer and the court, in its discretion, may conduct a preliminary hearing. It was in the best interest of the parties as well as of the trial court that the issue of res judicata be resolved immediately to avoid waste of time and effort.

2)

By RTC-Branch 39 Decision[20] dated December 12, 2008, appellant Rudy Martin's complaint for accion publiciana (Civil Case No. SJC-1187) was dismissed and such dismissal had attained finality because it was not appealed. It was a judgment on the merits and the trial court that rendered the same had jurisdiction over the subject matter and the parties therein. In that case, appellant Rudy Martin was the plaintiff and Agapito Benitez and Ceferina Benitez, the defendants. Meanwhile, in the present case, the plaintiffs were appellants Rudy Martin and Concepcion Martin-Ugalde while the defendants were Agapito Benitez, Ceferina Benitez, Almira Benitez-Almirol and Rodrigo Bibas, Jr.. Civil Case No. SJC-1187 was for accion publiciana – an action for recovery of possession if the dispossession had exceeded one year, while an accion reivindicatoria was meant to recover both possession and ownership, thus, there existed an identity of causes of action between the two cases.

In Civil Case No. SJC-1187, the cause of action was premised on their alleged ownership of the land by virtue of TCT No. 23197 and the violation of said right by the defendants(appellants). The same cause of action was being pursued in the present case. There was no doubt that the two causes of action were identical because the same evidence would sustain both.

Even assuming that the issues in the two cases were different, the final judgment in the previous case was already conclusive not only on the issues actually determined by the decision but also on all issues that could have been raised and litigated in the anterior suit.

Further, in Civil Case No. SJC-1187, RTC-Branch 39 had declared "even assuming that plaintiff was able to institute the proper action, still, this case has no legal leg to stand on for nowhere in the complaint of the plaintiff did it identify the portion of the property he seeks to recover". Appellants had the opportunity in that case to identify the property sought to be recovered, but failed to do so, hence, the subsequent complaint was barred by res judicata.

In their Comment/Opposition (on Affirmative Defense of Bar by Prior Judgment)[21] dated December 7, 2012, appellees alleged: There was no identity of parties, subject matter, and causes of action in the two cases. The parties were Rudy Martin, plaintiff, with Agapito Benitez and Ceferina Benitez, defendants. In the present case, the plaintiffs were Rudy Martin and Concepcion Martin-Ugalde with Agapito Benitez, Ceferina Benitez, Almira Benitez-Almirol, and Rodrigo Bibas, Jr., as defendants. The cause of action in Civil Case No. SJC-1187 was for recovery of possession while the present case was for recovery of possession and ownership.

By its first assailed Resolution[22] dated January 25, 2013, the trial court dismissed the complaint on ground of res judicata. Both parties allegedly agreed that the requirements of res judicata were present, viz: 1) the former judgment or order must be final; (2) it must be a judgment or order on the merits; 3) it must have been rendered by a court having jurisdiction over the subject matter and the parties, exist in the case; and 4) there was substantial identity of parties because of the community of interest between the parties in the first case and the parties in the second case, even if some of the parties in the second case were not impleaded in the first case.

The trial court denied appellants' motion for reconsideration[23] through its second assailed Resolution[24] dated April 15, 2013.

Appellants now fault the trial court for applying the doctrine of res judicata in dismissing the complaint below. They argue:

1.

A wrong cause of action cannot avail of a complete relief and the only way to deal with it is to dismiss it without prejudice to the filing of a subsequent complaint containing the missing material averments or pleading the correct cause of action. A decision pointing out the erroneous cause of action availed of in the complaint and the material averments it lacks does not amount to a complete adjudication of the case.

2.

A judgment is deemed to be rendered on the merits when it amounts to a declaration of the law as to the respective rights and duties of the parties, based upon the ultimate facts or state of facts disclosed by the pleadings and evidence, and upon which, the right of recovery depends, irrespective of formal, technical, or dilatory objectives or contentions.

3.

The prior decision of RTC-Branch 39 did not operate as a complete and conclusive adjudication of the merits of the case because it dismissed the complaint for accion publiciana only because the complaint failed to identify which exact portion of the lot appellant Rudy Martin wanted to recover possession of. There was also no determination of the parties' respective rights in that case. Accion publiciana does not bar the filing of an accion reivindicatoria because such actions are independent and distinct from each other[25].

Appellees riposte: RTC-Branch 39 rendered its decision after a consideration of the evidence and stipulations of the parties. The trial court had dismissed appellant Rudy Martin's complaint because of his failure to prove his case through the required quantum of evidence. There was identity of causes of action between the first and the second cases. All requisites of res judicata are present in this case[26].

We grant the appeal.

Res judicata literally means "a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled

by judgment." Res judicata lays the rule that 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. 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[27].

There is no question that the first three elements of res judicata are present insofar as it concerns the finality of judgment, the jurisdiction of Branch 39 over the complaint for accion publiciana, and the disposition of the case on the merits. The parties themselves even admit the existence of these elements. The only question now is whether the fourth element is similarly present i.e., identity of parties, subject matter, and causes of action.

The following matrix shows that only identity of parties is present. The requirement of identity of subject matter and identity of causes of action are both absent.

CIVIL CASE NO. SJC-1187

CIVIL CASE NO. 2011-324-SJC

a) Identity of Parties

Rudy Martin, Plaintiff, versus Agapito Benitez, Ceferina Benitez, and Almira Benitez-Almirol, Defendants

Rudy Martin and Concepcion Martin-Ugalde, Plaintiffs, versus, Agapito Benitez, Ceferina Benitez, Almira Benitez-Almirol, and Rodrigo Bibas, Jr.

b) Subject Matter

Unidentified portion of TCT No. 23719

1,000 square-meter portion of TCT No. 23719

c) Cause of Action

Recovery of possession only.

Recovery of ownership as main cause of action.

Foremost, the parties themselves admit that there is identity of parties in the two cases. Further, the rule on identity of parties does not require absolute identity, but only substantial identity of parties[28]. Here, the parties in both cases are identical, aside from the fact that in Civil Case No. 2011-324-SJC appellee Rodrigo Bibas, Jr., who constructed a 4x5 meter house beside appellee Almira Benitez-Almirol's house, was added as a co-defendant.

As for the subject matter, however, in Civil Case No. SJC-1187, the portion claimed by appellants was not identified, while in the present case, appellants had specifically identified the 1,000 square-meter portion occupied by appellees. For that matter, therefore, the required identity of subject matter, to repeat, is not present. The trial court, thus, aptly ruled:

Further assuming arguendo that plaintiff was able to institute the proper action, still, this case has no legal leg to stand on for nowhere in the complaint of the plaintiff did it "identify the portion of the property he seeks to recover. Article 434 of the Civil Code specifically provides that, "in an action to recover, the property must be

identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim". "It is an incontrovertible principle of law that in order an action to recover may be successfully prosecuted, it is necessary to identify the thing claimed as the object of the claimant's right of dominion", *Laluan vs. Malapaya* 65 SCRA 494. All that the plaintiff alleged was that he is a co-owner of a portion of a land located at Zone 5, Brgy. Porais, San Jose City, with an area of 3,358 square meters, and that, defendants encroached a portion of which. True, that in the course of the proceedings, plaintiff clarified the matter and declared before this Court that he is merely claiming the portion of the property in controversy which have been encroached by the defendant. However, this allegation is not enough for this Court to consider the portion claimed by the plaintiff to have been properly identified, it should at the very least be identified by metes and bounds[29].

But even assuming that there was identity of subject matter in the two cases, still the causes of action therein are different. In Civil Case No. SJC-1187, the cause of action was accion publiciana, an action to determine who has the better right of possession[30], while here, the main cause of action was accion reivindicatoria, an action to recover ownership[31].

On this score, in Civil Case No. SJC-1187, RTC-Branch 39 explicitly ruled that appellees, not appellants, had prior physical possession of the land, hence, had a better right to retain the same. Notably, it did not rule on the issue of ownership, which in fact is the issue being raised in the present case.

Indeed, an accion reivindicatoria is not barred by a judgment in an ejectment case, which simply delves on the issue of possession.[32] They are two distinct causes of action. Accion publiciana is an ordinary civil proceeding to determine the better right of possession of realty independently of title[33], while accion reivindicatoria is a remedy seeking the recovery of ownership and includes jus possidendi, jus utendi, and jus fruendi as well. It is an action whereby a party claims ownership over a parcel of land and seeks recovery of its full possession[34]. A judgment in an ejectment case disposes of no other issue than possession and establishes only who has the right of possession, but by no means constitutes a bar to an action for determination of who has the right or title of ownership[35].

ACCORDINGLY, the appeal is GRANTED. The twin Resolutions dated January 25, 2013[36] and April 15, 2013[37] are REVERSED and SET ASIDE, and the case, REMANDED to the trial court for disposition on the issue of ownership.

SO ORDERED.

Castillo, (Chairperson) and Galapate-Laguilles, JJ., concur.

[1] RTC Record, pages 101-103.

[2] RTC Record, page 103.

[3] RTC Record, pages 119-122.

[4] RTC Record, page 122.

[5] RTC Record, pages 2-7.

[6] RTC Record, page 10.

[7] RTC Record, page 11.

[8] RTC Record, page 13.

- [9] RTC Record, pages 14-20.
- [10] RTC Record, page 20.
- [11] RTC Record, pages 6-7.
- [12] RTC Record, pages 31-36.
- [13] RTC Record, pages 37-38.
- [14] RTC Record, pages 66-67.
- [15] RTC Record, pages 74-75.
- [16] RTC Record, page 68.
- [17] RTC Record, page 76.
- [18] RTC Record, page 80.
- [19] RTC record, pages 84-90.
- [20] RTC Record, pages 14-20.
- [21] RTC Record, pages 94-98.
- [22] RTC Record, pages 101-103.
- [23] RTC Record, pages 104-111.
- [24] RTC Record, pages 119-122.
- [25] Rollo, pages 18-31.
- [26] Rollo, pages 83-91.
- [27] Republic v. Teofista, G.R. NO. 157557, March 10, 2006.
- [28] Oropeza Marketing Corporation v. Allied Banking Corporation, G.R. No. 129788, December 03, 2002.
- [29] Rollo, page 51.
- [30] De Viray v. Usi, G.R. No. 192486, November 21, 2012.
- [31] Supra.
- [32] Id.
- [33] Encarnacion v. Amigo, G.R. NO. 169793, September 15, 2006.
- [34] Iglesia ni Cristo v. Ponferrada, G.R. NO. 168943, October 27, 2006.
- [35] Custodio v. Corrado, G.R. No. 146082, July 30, 2004.
- [36] RTC Record, pages 101-103.
- [37] RTC Record, pages 119-122.

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