

ATANACIO ROBIS, PLAINTIFF-APPELLANT, VS. SUSANA CASPE AND IRENEO ARAW, DEFENDANTS-APPELLEES.*G.R. No. L-6166. September 28, 1954*

Ponente: BENGZON, J.

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The plaintiff-appellant asks for reversal of the decision of the Samar court of first instance that absolved the defendant-appellees from his complaint seeking recovery of a parcel of land. Said defendants had duly answered, setting up the judgment in their favor in a previous suit between the same parties, but at the trial failed to appear, and plaintiff established the following facts, summarized by the court a quo:

"That the land described in the complaint was originally a public forest when Ceferino Oligario occupied and cleared it in 1932; that in 1947 said land was declared for taxation purposes by Ceferino Oligario in his name (Exhibit B); that in 1948 the plaintiff herein declared the same land in his own name for taxation purposes (Exhibit C), and paid the corresponding land taxes for the years 1947 and 1949 (Exhibit D and D-1); that on April 15, 1940, the plaintiff, by virtue of the private document of sale (Exhibit E), bought said land from Ceferino Oligario; that on May 27, 1941, Ceferino Oligario executed another deed of sale of the same land before Notary Public Marcelino Libanan in favor of the plaintiff (Exhibit F); that the possession of the land in question was litigated in Civil Case No. 222 for Forcible Entry, entitled Atanacio Robis vs. Ireneo Araw and Susan Caspe, before the Justice of Peace of Dolores, Samar, wherein a decision was rendered in favor of the plaintiff Atanacio Robis on June 23, 1946 (Exhibit G), from which decision the defendants appealed to this Court of First Instance and said case was docketed in this Court as Civil Case No. 37, and was decided on May 22, 1951 by this Court condemning the plaintiff, Atanacio Robis, to restore and deliver the land now in question to the present defendants; and, that on February 20 or 26, 1952 the Deputy Provincial Sheriff, Mr. Jose R. Amores, in compliance with the order of execution issued in said Civil Case No. 37, delivered to the defendants herein the land now in question (Exhibit H)." (Record on Appeal pp.5-7)

From the above facts, the trial judge concluded that possession of the land was "res adjudicata" on defendants' side, and therefore plaintiff "is estopped" from asserting -as basis of his action- that he was in possession of the land in December 1945 when defendants ejected him by force.

The appellant argues here that "res adjudicata" does not apply, because although the parties and the subject-matter in this and in previous Civil Case No. 37 are the same, there is no identity of cause of action, the present litigation being for the recovery of dominion while the former involved possession only. It appears, however the plaintiff proved no title or ownership either in himself or in Ceferino Oligario, inasmuch as merely clearing a public forest in 1932 and paying taxes thereon for three years (1947-1949) does not constitute any title. Consequently the debate is reduced -as it must be- to rights of possession; and the decision for defendants in the forcible-entry litigation will have to prevail, especially because the basic contention of plaintiff at present is that in December 1945 "defendants by means of force and intimidation turned plaintiff out of possession of the land in question" - a point decided against him in the previous judicial controversy (Exh. G) wherein maintained vainly that defendants had grabbed the land in the same month.

"A fact or question which was in issue in a former suit, and was there judicially passed on and determined by a domestic court of competent jurisdiction, is conclusively settled by the judgment therein, as far as concerns the parties to that action and persons in privity with them, and cannot be again litigated in any future action between such parties, or privies, in the same court or any other court of concurrent jurisdiction, on either the same or different cause of action." (C.J.S. p. 141) (Italics ours)

"Conclusiveness of a judgment is distinguishable from bar a former adjudication in that it may apply in a second action on a cause of action different from the first action, but does not extend beyond the matters actually litigated and determined in the first action." C.J.S. p. 143) (Italics ours)

To contend -as appellant does- that said former judgment for defendants had not been rendered on the merits because it was the result of plaintiff's default, is to ignore sec. 3 rule 30, Rules of Court, which provides that such dismissal "shall have the effect of an adjudication upon the merits" unless otherwise provided.

Wherefore, considering that every possessor has a right to be respected in his possession (Art. 539 New Civil Code) we hold that the trial judge committed no error in denying relief to herein plaintiff-appellant.

Judgment affirmed, with costs. So Ordered.

Paras, C.J., Pablo, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, Concepcion and Reyes J.B.L., JJ., concur.

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