

AGRICULTURAL CREDIT AND COOPERATIVE FINANCING CORPORATION (ACCFA) PLAINTIFF AND APPELLANT, VS. GOYENA LUMBER COMPANY, ET AL., DEFENDANTS AND APPELLEES.

G. R. No. L-18078. October 31, 1962

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This controversy concerns a warehouse erected by the Bugallon Facoma on the lot of Maxima Bauson located in Bugailon, Pangasinan. The Goyena Lumber Company furnished the materials for the construction of the warehouse, which in turn was mortgaged to the Agricultural Credit and Cooperative Financing Administration, designated as ACCFA for short, to secure the payment of the funds loaned for such construction. The mortgage was registered on March 27, 1957. The Bugallon Facoma failed to pay the value of the materials, and in Civil Case No. 602 of the Court of First Instance of Pangasinan filed by the Goyena Lumber Company, judgment for payment of the debt was rendered in favor of said company, and the warehouse was levied in execution. The ACCFA filed a third-party complaint on February 21, 1958, which it failed to prosecute, and on March 3, 1958, the warehouse was sold at public auction to the company for P3,759.51. The certificate of final sale was issued on March 6, 1959. The vendee took possession thereof on March 10, 1959, and registered the sheriff's final sale on March 12, 1959.

On March 31, 1959, the ACCFA filed an action for foreclosure of mortgage against the Bugallon Facoma (Civil Case No. 13849, CFI, Pangasinan). The Goyena Lumber Company was not included as defendant in said case. Judgment of foreclosure was rendered on May 27, 1959, and the warehouse subject matter of the mortgage was sold at public auction to the ACCFA for the sum of P4,000.00. This sale was confirmed by the court on February 15, 1960.

In the meantime, on October 14, 1959, the ACCFA filed an injunction case against the Goyena Lumber Company to restrain the latter from demolishing the warehouse (Civil Case No. D-988). The complaint was dismissed on December 17, 1959, the decision having become final for lack of appeal. On February 5, 1960, an order was issued allowing the Goyena Lumber Company to dismantle the warehouse.

The ACCFA, however, filed on February 12, 1960 another complaint docketed as Civil Case No. 13943 against the Goyena Lumber Company praying that an injunction be issued enjoining the defendant from demolishing the warehouse sold to plaintiff in Civil Case No. 13849. On the basis of this complaint, the court issued on February 16, 1960, a writ of preliminary injunction restraining the Goyena Lumber Company and the sheriff from demolishing the warehouse. The company filed a petition to dissolve this injunction on February 27, 1960. On March 3, 1960, the ACCFA filed an amended complaint to include the recovery of the warehouse with damages, and the foreclosure of the Goyena Lumber Company's equity of redemption. On April 20, 1960, the court dissolved the writ of injunction but admitted the amended complaint which, however, on May 25, 1960, the court also dismissed on the ground of res judicata and lack of cause of action. This order is the subject of the present

appeal.

The main issue raised by appellant is that the trial court erred in dismissing the amended complaint on the ground that it is already barred by a prior judgment under the principle of *res judicata*.

It is claimed that the doctrine of *res judicata* cannot be invoked against appellant even if in Civil Case No. D-988 the court already declared the Goyena Lumber Company to be the owner of the warehouse in question for the reason that under Section 44, Rule 39, of the Rules of Court, a judgment can only be considered conclusive between the parties and their successors-in-interest in a subsequent case if they are "litigating for the same thing and under the same title and in the same capacity." This condition does not here obtain for, in Civil Case No. D-988, the complaint was instituted by appellant in its capacity as a judgment-mortgagee and the relief sought therein was merely to enjoin the Goyena Lumber Company from dismantling the warehouse to protect its rights as mortgagee, whereas in the present case the complaint was filed by plaintiff already in its capacity as owner of the warehouse and the sale was confirmed by the court in the foreclosure case.

It should, however, be noted that in the aforesaid Civil Case No. D-988 filed by appellant on October 14, 1959 for the issuance of a writ of preliminary injunction its main cause of action was that "defendant Goyena Lumber, thru its manager, defendant Manuel Goyena, is threatening and preparing and is about to dismantle or demolish the said warehouse which is the same building which is the subject matter in the foreclosure proceeding (Civil Case No. 13849) and which has already been adjudicated to the herein plaintiff by virtue of a final judgment." This complaint was dismissed on December 17, 1959, and in its decision the court declared that the defendant Goyena Lumber Company is the owner of the warehouse in dispute, and that "the ACCFA slept on its rights, when during the auction sale conducted by the sheriff, it failed to pursue the third party claim that it filed, which failure culminated in the sale of the warehouse in favor of defendant Goyena Lumber Company." This decision became final for lack of appeal on the part of the ACCFA.

In the instant case, on the other hand, appellant seeks the same relief which it tried to obtain in the previous case which is to enjoin the Goyena Lumber Company from demolishing and destroying the same warehouse sold to it in Civil Case No. 13849, which warehouse was no other than the warehouse declared to be owned by the Goyena Lumber Company in the decision rendered in Civil Case No. D-988. On the basis of this complaint, the court issued the writ of preliminary injunction prayed for, and later, the ACCFA amended its complaint to include the recovery of the warehouse and the foreclosure of the equity of redemption acquired by the Goyena Lumber Company at the execution sale on March 3, 1958.

On the basis of the above facts, we hold that the dismissal of the complaint in the present case on the ground of *res judicata* is proper for the requisites for the existence of said doctrine are here present. Thus, in order that a judgment rendered in one case may be conclusive and bar a judgment in another, the following requisites must be present: (a) there must be a final judgment; (b) the court must have jurisdiction over the subject matter and the parties; (c) it must be a judgment on the merits; and (d) there must be between the two cases identity of parties, subject matter and cause of action (*San Diego vs. Cordona*, 72 Phil., 281). Here all these requisites are present for it cannot be disputed that the judgment in the first case was on the merits, the court had jurisdiction over the subject matter and the parties, and the dispute revolved around the same parties, subject matter and cause of action.

It is true that it is now claimed that the plaintiff in the first case acted in its capacity as mortgagee of the warehouse whereas in the present it filed the complaint in its capacity as owner, but this difference is of no consequence, for it cannot be denied that the parties are the same and the subject litigated also refers to the same property. It has been held in a long line of decisions that, where a party, though appearing in different capacities,

is in fact litigating the same right, there is in effect the requisite identity of parties and the former adjudication is res judicata.[1] The fact that appellant added another cause of action, that is, the foreclosure of defendant's alleged equity of redemption, is immaterial it appearing that the same has as its basis the alleged ownership of the warehouse which has conclusively been passed upon the former case. The lower court, therefore, did not err in dismissing the amended complaint on the ground of res judicata.

Having reached the foregoing conclusion, we deem it unnecessary to discuss the other issues raised in appellant's brief.

Wherefore, the order appealed from is affirmed, without pronouncement as to costs.

Bengzon C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

[1] Linton vs. Omaha Wholesale Prod. Market House Co., 218 Fed. 331, 133 C.C.A. 336; Brown vs. Howard, 92 Fed. 537; Colton vs. Onderdonk, 69 Cal. 155, 10 Pac. 395; Williams vs. Southern Pac. Co., 54 Cal. App. 571, 202 Pac. 356; La Pierre vs. Webb, 113 Ga. 820, 39 S.E. 34; Braswell vs. Hecks, 106 Ga. 791, 32 S.E. 861, Heyl vs. Donifelser, 59 Kan. 779, 54 Pac. 1059; Maddox vs. Williams, 87 Ky. 147, S.W. 907.

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