

SATURNINO MEDIJA, PLAINTIFF-APPELLANT, VS. ERNESTO PATCHO, LAURIANA PATCHO, TARCILA BATILONA, TEODORO BARORO, DONATA BALURAN, MARCELINO BALURAN, AND SANTOS MA. DELGADO, AS PROVI...

G.R. No. L-30310. October 23, 1984

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is an appeal from the orders dated June 11, 1968 and July 20, 1968 of the then Court of First Instance of Misamis Occidental (now Regional Trial Court under BP 129) dismissing Civil Case No. 2665 filed by plaintiff-appellant for quieting of title and damages with prayer for preliminary injunction on the ground of res judicata and laches.

The prelude to the present case is Civil Case No. 1884 filed on May 10, 1956 in the same Court of First Instance of Misamis Occidental.

Civil Case No. 1884 was an action for partition and damages filed by Ernesto Patcho, Lauriana Patcho, Tarcila Batilona, Simeon Batilona, Teodoro Baroro, Donata Baluran and Marcelino Baluran (defendants herein) against their uncle Agripino Morante, Cirila Morante, Ignacio Patcho and Saturnino Medija (plaintiff-appellant herein). The subject matter of the action were five parcels of land owned by the late Lorenzo Morante who died in 1943 leaving the plaintiffs (defendants herein) as heirs. They claimed that the defendants have been unlawfully holding and using portions of the lands since the death of Lorenzo Morante.

After trial, the lower court held that the plaintiffs had failed to establish the allegations of their complaint and dismissed the same. The case was elevated on appeal to the then Court of Appeals.

On October 22, 1963, the Court of Appeals reversed the same in favor of the plaintiffs for the partition of those portions not yet partitioned among the heirs of Lorenzo Morante being unlawfully held by defendants since the death of aforesaid Lorenzo Morante in 1943 and for the payment of the proportionate produce corresponding to the legitimate shares of the plaintiffs from the year 1943 (pp. 41-42, Record on Appeal, p. 5, rec.).

The case was remanded to the Court of First Instance anew with the specific order to partition among the corresponding heirs of Lorenzo Morante the portion of the lands left unpartitioned and to receive evidence on the damages to be paid by the defendants to the plaintiffs (defendants herein) and thereafter to render judgment.

On April 17, 1967, the lower court issued its order embodying the partition of those undivided portions of the land and the damages to be paid by the defendants.

Anent the partition of the still undivided portions of the land in question, the order of the lower court contained the agreement of the parties, to wit:

"STIPULATION

"COME NOW the parties herein, by and thru their respective counsel for purposes of buying peace, and, therefore, settling the above entitled case once and for all between them, to this Honorable Court hereby submit the following as a means for the proper execution of the decision of the Honorable Court of Appeals' decision dated October 22, 1963 to wit:

"1. That as the land comprised in Exh. 'J' lots Nos. 1051, 1054 and 1055, there are partitioned and unpartitioned portion between the heirs of the spouses Lorenzo Morante and Candelaria Magno as found by the Honorable Court of Appeals contained in its decision aforesaid, the parties hereto with the end in view of convenience to receiving only a lump sum portion thereof as share have agreed to repartition the said property equally owned. Agripino Morante, Cirila Morante and Francisco Morante, the latter is represented herein by his heirs, the plaintiffs in this case.

"2. That the dividing items of the repartition stated in the preceding paragraph hereof shall be running from 'East and West', much that the share be on the southern portion of the aforesaid land; that Cirila Morante, the portion north to the share of the heirs of Francisco Morante; and that the portion worth of Cirila Morante share shall be the share of Agripino Morante.

"3. That as regards the land covered by Exhibits 'A' and 'B' or Tax Decs. No. 6211 and 5818, respectively which were found by the Honorable Court of Appeals to be unpartitioned by the aforesaid heirs, that the two properties being continuous (sic) to each other it is agreed herein that the same be partitioned equally by the aforementioned heirs of Lorenzo Morante and Candelaria Magno and that the dividing lines shall run from 'North to South', the eastern portion thereof shall go to defendant Agripino Morante; the next portion which is west of Agripino Morante's share shall go to Cirila Morante; and the portion west of Cirila Morante's share shall go to the plaintiffs.

"4. That counsel for defendant Saturnino Medija sign this stipulation in representation of Saturnino Medija as successor in interest of whatever rights he acquired.

"5. That for purposes of doing partition and/or repartition contemplated in the preceding paragraph hereof, the Honorable Court is prayed for to commission any of the public Land Surveyor of the Bureau of Lands station at Ozamis City at fees to be shouldered by the parties in this case and that said surveyor shall render a report of his work within thirty (30) days from receipt of the order of his commission.

"Oroquieta, Misamis Occ. April 7, 1967" (pp. 44-46, Record on Appeal, p. 5, rec., *Italics supplied*).

The dispositive portion of the order is as follows:

"WHEREFORE, in accordance with the decision of the Court of Appeals, it is hereby ORDERED: 1. - That all the herein parties concerned must be guided by the partition made by and among the parties themselves duly assisted by their respective counsels as therein embodied, and duly approved; 2. - That the herein defendants shall pay to the plaintiffs by way of damages, as follows: CIRILA MORANTE, for the occupancy of Lot No. 1054 in Exhibit 'J' from the year 1947, the amount of P6,755.46; SATURNINO MEDIJA for his occupancy of Lot No. 1055 in Exhibit 'J' from the year 1947 the amount of P1,322.00; Victoria Cabog and her husband IGNACIO PATCHO for their occupancy of 'the land covered by land Tax Declaration No. 5818 from year 1945, the amount of P6,844.44; and AGRIPINO MORANTE or his heirs and successors in interest for their occupancy of the land covered by Land Tax Declaration No. 6211 from the year 1943, the amount of P3,737.76; 3. - Without pronouncement as to costs" (pp. 59-60, Record on Appeal, p. 5, rec., *Italics supplied*).

Thereafter, on March 16, 1968, Saturnino Medija filed a complaint in the same Court of First Instance of Misamis Occidental. This is the present Civil Case No. 2665 for quieting of title and damages with' prayer for preliminary injunction.

The plaintiff-appellant alleged that he is the legal owner of two parcels of land situated at Dapacan Alto, Calamba,

Misamis Occidental, described and bounded as follows:

PARCEL I: Designated as Lot No. 1051, Pls-383, with an area of 16,664 square meters; covered by Original Certificate of Title No. P-1827; and declared under Tax Dec. No. 16550, with an assessed value of P550.00;

PARCEL II: Designated as Lot No. 1055, Pls-383, with an area of 20,042 square meters; covered by Original Certificate of Title No. P-1828; and declared under Tax Dec. No. 14950, with an assessed value of P1,950.00 (pp. 2-3, Record on Appeal, p. 5, rec.).

The complaint states that Parcel I had been acquired by plaintiff-appellant from the defendants by virtue of documents of sale executed by the latter at various dates between the years 1948 and 1952 while Parcel II had been acquired by the plaintiff-appellant from one Agripino Morante (p. 3, Record on Appeal, p. 5, rec.).

On account of the adjudication of Parcel I to the defendants, pursuant to the judgment in Civil Case No. 1884, and of the defendants' intention to claim the same, a cloud has been cast upon the title of the plaintiff-appellant which led to the filing of the complaint (p. 5, Record on Appeal, p. 5, rec.). As regards Parcel II, the defendant provincial sheriff has offered to sell the said land in an auction sale to satisfy an obligation of Agripino Morante in favor of the defendants (p. 4, Record on Appeal, p. 5, rec.).

The defendants filed their answer on April 17, 1968. They alleged that the pronouncement of the title of the plaintiff-appellant is tainted with bad faith and fraud (p. 8, Record on Appeal, p. 5, rec.). As a special affirmative defense, the defendants alleged res judicata for the present case is foreclosed by the decision in the prior case for partition -- Civil Case No. 1884 (p. 9, Record on Appeal, p. 5, rec.). Finally, defendants alleged that the plaintiff-appellant is guilty of laches because he did not present his documents of title at the trial of Civil Case No. 1884 aforesaid sometime in the year 1958 when he himself alleged that he acquired the land in question at various dates between 1948 and 1952.

On June 11, 1968, the court called the case for pre-trial and an order was issued dismissing the case on the ground of res judicata, to wit:

"xx xx xx.

"It is submitted in the special affirmative defense that there exist the same parties, the same parcel of land and the same issues in this case raised for quieting of title and damages with prayer for preliminary injunction as those already decided by the Court of Appeals in the original case from this court being Civil Case No. 1884 where after the decision of the Court of Appeals the records were sent here for this court to receive further evidence on assessment of damages against the possessors of the same 2 parcels of land involved in the said appeal and where this Court made the adjudication after the parties concerned themselves submitted an agreement on the point at issue.

"So that, the issues raised in this case have been actually decided by the Court of Appeals in that decision of theirs in original Civil Case No. 1884 which was appealed.

"However, it is advanced by counsel for the plaintiff that the herein party-plaintiff acquired ownership of parcel one by virtue of the sale made by Ernesto Patcho, Lauriana Patcho, Tarcela Batilona, Teodoro Baroro, Donata Baluran and Marcelino Baluran, while the case was then pending appeal before the Court of Appeals and for parcel 2 plaintiff acquired same by purchase from Agripino Morante, also while the same Civil Case was pending in the Court of Appeals.

"Such being the case, the proprietary rights of the herein plaintiff are dependent upon the success or extent of ownership that could be actually sold by his predecessors-in-interest involved in the same case, and this court having decided already regarding the point of damages as ordered in the decision of the Court of Appeals

regarding these 2 parcels of land, the herein plaintiff cannot acquire better rights than the vendor as expressly mentioned above.

"The court in this incident now, and converting the pre-trial into the hearing of the affirmative defenses, concludes that the same parties are involved and the same issues and the same parcels of land which had been already adjudicated by the appellate court, the Court of Appeals, are involved.

"WHEREFORE, upon the ground of res judicata, this case is hereby ordered dismissed without special pronouncement as to costs" (pp. 14-16, Record on Appeal, p. 5, rec.).

On July 2, 1968, a motion for reconsideration was filed and likewise denied by the lower court on the additional ground of laches.

The plaintiff-appellant assigns two errors, to wit: a) that the lower court erred in dismissing the present case on the ground of res judicata, and b) the lower court erred in declaring plaintiff-appellant guilty of laches.

WE find this appeal without merit.

There is res judicata when the following re-quisites are present: 1) the formal judgment or order must be final; 2) it must be a judgment or order on the merits, that is, it was rendered after a consideration of the evidence or stipulations submitted by the parties at the trial of the case; 3) it must have been rendered by a court having jurisdiction over the subject matter and the parties; and 4) there must be, between the first and second actions, identity of parties, of subject matter and of cause of action (Aroc vs. PHHC, L-39674, January 31, 1978).

Applying the above requisites, there can be no question that the present case is foreclosed by the decision in Civil Case No. 1884 for partition. The judgment in Civil Case No. 1884 was rendered by a court of competent jurisdiction after a consideration of the evidence submitted by the parties. After the decision of the Court of Appeals in said case, the records of Civil Case No. 1884 were sent back to the lower court to receive further evidence on assessment of damages against the possessors -- one of whom is the plaintiff-appellant -- of the parcels of land involved in the partition and to execute the judgment.

There is no dispute regarding the identity of subject matter between the previous case for partition (Civil Case No. 1884) and this present case, because the two parcels of land form part of the several parcels of land subject of partition in the previous action (Civil Case No. 1884).

There is identity of parties because the parties in the first case (Civil Case No. 1884) and the present one are the same. The addition of the provincial sheriff as one of the defendants in the present action cannot deter the application of the doctrine of res judicata, since the sheriff is not a necessary party either in the first or in the second action. There is authority to support the application of the doctrine of res judicata where the person joined in the earlier or later action, or both, is a mere nominal party who has no personal interest in the subject matter of the litigation (30 Am. Jur., 955-956). There can be no question that the provincial sheriff has no personal interest in the parcels of land which are the subject matter of the present case.

WE held before that persons not parties to the prior action are not barred by the rule on res judicata (Yusingco vs. Ong Hing Lian, 42 SCRA 591). In the instant case, plaintiff-appellant Saturnino Mediña was a party in Civil Case No. 1884 as well as in the present case. His position satisfies clearly the requirement of identical parties between the first and second actions.

Is there identity of cause of action between the first and second actions? The answer is yes. The fact that Civil Case No. 1884, filed by the appellees against the appellant was for partition of the hereditary estate with accounting of fruits of several parcels of land, while Civil Case No. 2665, brought by appellant against the

appellees, was for quieting of title over two parcels which are parts of the same properties subject of the previous case, does not remove the present proceeding from the operation of the principle of bar by former judgment. As specifically stated in the decision of the Court of Appeals in Civil Case No. 1884, now final and executory, the right of therein plaintiffs (appellees herein) to partition the several parcels of land was based on Article 1103 of the Civil Code. The appellees' right to ownership is based on succession, they being heirs of the deceased Lorenzo Morante. What the appellant did is to institute another action which would preclude the execution of the judgment of the lower court in Civil Case No. 1884. It must be remembered that a change in the form of action or in the relief sought does not remove a proper case from the application of *res judicata*. In other words, a party cannot, by varying the form of action, or adopting a different method of presenting his case, escape the operation of the principle that one and the same cause of action shall not be twice litigated between the same parties (*Ramos vs. Pangasinan Transportation Company, Inc.*, 79 SCRA 171; *Aguila vs. J. M. Tuason & Co., Inc.*, 22 SCRA 690, citing *Clemente vs. H. E. Heacock Co.*, G.R. No. L-23212, May 18, 1967; *Francisco vs. Blas*, 93 Phil. 43).

The corollary principle of *res judicata* is that courts are not concerned so much with the form of action as with its substance and that despite a difference in the form of action, nevertheless, the doctrine of *res judicata* would be applied where it appears that the parties in the two suits were in truth litigating the same thing (*Senoro vs. Lobo*, 67 SCRA 248, 255).

If the herein appellant really had a preferential right to ownership of the two parcels of land by virtue of an alleged sale made by the appellees to him between the years 1948 and 1952, then these facts should have been pleaded by him in the previous case (Civil Case No. 1884), since such fact, if true, constituted a defense to the claim of the appellees for partition and accounting of fruits. If the appellant failed to plead such defense in that previous case, he is barred from litigating the same in any subsequent proceeding, for it is a well established rule that as between the same parties and the same subject and cause of action, a final judgment is conclusive not only on matters directly adjudicated, but also as to any other matter that could have been raised in relation thereto (Sec. 49[b], Revised Rules of Court, Rule 39, *Jalandoni and Ramos vs. Matin Guanzon*, 102 Phil. 869, 862).

This Court, speaking through justice J.B. L. Reyes, has held: "Public policy is firmly set against unnecessary multiplicity of suits; the rule of *res judicata*, like that against splitting causes of action, are all applications of the same policy, that matters hence settled by a court's final judgment of issues already settled merely burdens the Courts and the tax-payers, creates uneasiness and confusion, and wastes valuable time and energy that could be devoted to worthier cases. As the Roman maxim goes, *Non Bis In Idem*" (*Aguila vs. J. M. Tuason & Co., Inc.*, supra, p. 965).

WE now go to the point of laches.

An estoppel by laches arises from the negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it (*Tijam, et al. vs. Sibonghanoy*, 23 SCRA 29). Its essence is the doctrine of estoppel, a concept derived from American law that aims to bring out justice between parties, through the operation of the principle that an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon (Report of the Code Commission, p. 59). In other words, it precludes a person from denying or asserting anything to the contrary of that which has, in contemplation of law, been established as the truth, either by the acts of judicial or legislative officials or by his own deed or representation, either expressed or implied (19 Am. Jur. 651).

The doctrine of laches is the principle that equity will not aid a plaintiff whose unexcused delay, if the suit were allowed, would be prejudicial to the defendant (*Major vs. Shaver*, 187 F. 2d. 211, 212 US App. D.C. 148). The

question of laches is addressed to the sound discretion of the court; and since laches is an equitable doctrine, its application is controlled by equitable considerations (*Sotto vs. Teves*, 86 SCRA 154).

In the instant case, the complaint of appellant states that Parcel I had been acquired by plaintiff-appellant from the defendants by virtue of documents of sale executed by the latter at various dates between the years 1948 and 1952, while Parcel II had been acquired by the plaintiff-appellant from one Agripino Morante (p. 3, Record on Appeal, p. 5, rec.). If this were the case, he should have presented the deeds of sale when Civil Case No. 1884 was filed on May 10, 1956. He did not. Neither did he present any claim of ownership when Civil Case No. 1884 was appealed to the Court of Appeals. Appellant did not contest the partition and the assessment of damages made by the lower court in its order dated April 17, 1967 in Civil Case No. 1884. It was only when Civil Case No. 1884 was being executed that appellant moved to file a complaint for quieting of title in the same Court of First Instance of Misamis Occidental. Such conduct cannot be allowed.

A person is precluded from maintaining a position inconsistent with one to which he has acquiesced (19 Am. Jur. 678-679). Where a party has the means in his power of rebutting and explaining the evidence adduced against him, if it does not tend to the truth, the omission to do so furnishes a strong inference against him (*A.G. vs. Windsor*, 24 Beav. 679, p. 706). Indeed, equity aids the vigilant, not those who slumber on their rights (*Trapp vs. Schaefer*, 30 A 2d. 287, 289, 133 N.J. Eq. 39).

LEX DELATIONES SEMPER EXHORRET (The law always abhors delays).

The strategy of plaintiff-appellant cannot be upheld. It makes a mockery of justice, a tool concocted by unscrupulous men to perpetually move the machinery of the law to avoid the execution of judgments. The fact of registration of the land under his name cannot prevent US from dismissing the appeal against the appellant. WE have ruled before that the doctrine of stale demands (laches) can work even against the owner of registered lands (*Mejia de Lucas vs. Gamponia*, 100 Phil. 277).

WHEREFORE, THE APPEALED ORDERS OF THE COURT OF FIRST INSTANCE DATED JUNE 11, 1968 AND JULY 20, 1968 ARE HEREBY AFFIRMED. TRIPLE COSTS AGAINST APPELLANT.

SO ORDERED.

Concepcion, Jr., Guerrero, Abad Santos, Escolin, and Cuevas, JJ., concur.

Aquino, J., in the result.

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