MARIA ROSARIO LOZADA-STEWART AND ESTELITA L. UNCHUAN, PLAINTIFFS-APPELLANTS, VS. ANTONIO J. P. LOZADA, GRACE GUINOOR LOZADA, AND SENORA DAMASA DEVELOPMENT CORP., DEFENDANT-APPEL...

Ponente: DIY, J.

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DIY, J.:

Before Us is an appeal under Rule 41 of the 1997 Rules of Civil Procedure, assailing the Resolution[1] dated September 20, 2010 of Branch 17, Regional Trial Court of Cebu City (hereafter, “court a quo”) in Civil Case No. CEB-36548 dismissing the complaint for Declaration of Deed of Sale as Void Ab Initio, Cancellation of TCT Nos. 133066 and 133067, Accounting, and Damages on the ground of res judicata.

The antecedents are as follows:

The instant case originated from a Complaint[2] for Declaration of Nullity of Deed of Sale, Cancellation of TCT Nos. 133066 and 133067, Accounting, and Damages filed by Maria Rosario Lozada-Stewart and Estelita L. Unchuan (hereafter, “plaintiffs-appellants”) against Antonio J.P. Lozada, Grace Guinoor Lozada, and Senora Damasa Development Corporation (hereafter, “defendant-appellees”) before the court a quo.

The Version of Plaintiffs-Appellants

Plaintiffs-appellants in their complaint claimed that they are the siblings of the late Peregrina Lozada and Anita Lozada (hereafter, “Peregrina” and “Anita”, respectively). Peregrina and Anita were the co-owners of Lot 898-A-4 covered by TCT No. 53258 and Lot 898-A-3 covered by TCT No. 53257 (hereafter, “subject lots”). In 1992, Anita executed a special power of attorney in favor of Peregrina to sell her share in the subject lots.

Sometime in 1994, defendants-appellees Antonio J.P. Lozada and Grace Guinoor Lozada (hereafter, “Antonio” and “Grace”, respectively) presented before the Register of Deeds for Cebu City a Deed of Sale executed by Peregrina in their favor. As a consequence, TCT Nos. 128322 and 128323 were canceled and TCT Nos. 128322 and 128323 were issued in their names.

By virtue of a Deed of Assignment executed by Antonio and Grace in favor of defendant-appellee Senora Damasa Development Corp., (hereafter, “the Corporation”), TCT Nos. 53258 and 53257 were canceled and TCT Nos. 133066 and 133067 were issued on April 21, 1994 in the name of the Corporation.

Plaintiffs-appellants asserted that Peregrina could not have signed the Deed of Sale dated March 11, 1994 in favor of Antonio and Grace because Peregrina had been suffering from myelodysplastic anemia since May 1993 and had been admitted in Martin Luther Hospital in Anaheim, Orange County, California on February 27, 1994 until her death on April 4, 1994.

The Version of Defendants-Appellees

On the other hand, defendants-appellees in their Answer[3] contended that the case should be dismissed because

the Supreme Court had already ruled on the validity of the subject Deed of Sale and the titles issued in the name of Antonio.

Defendants-appellees claimed that sometime in January 1994, Antonio learned that her aunts Peregrina and Anita were planning of selling the subject lots. In order to keep the lands within the family, Antonio and his uncle Dr. Antonio R. Lozada agreed to buy the subject lots and form Senora Damasa Development Corporation. The duo successfully bought the subject lots.

In the course of registration of the Deed of Sale, Antonio discovered that Marissa Unchuan[4] (hereafter, "Marissa") caused the annotation of an affidavit of adverse claim on the titles of the subject lots. The adverse claim of Marissa was based on a Deed of Donation supposedly executed by Anita, sister of Peregrina, in favor of Marissa over one-half share in the subject lots. Antonio relayed this discovery to his aunt Anita who, however, denied the execution of the Deed of Donation. Consequently, Anita authorized Antonio to file a case for quieting of title against Marissa. This case was docketed as Civil Case No. CEB-16145 and entitled "Anita Lozada and Antonio J.P. Lozada, in his own behalf and as attorney-in-fact of Anita L. Lozada versus Marissa R. Unchuan".

Marissa also lodged a case against Antonio for Declaration of Nullity of Deed of Sale and Cancellation of TCT Nos. 128322 and 128323. The case was entitled "Marissa R. Unchuan versus Antonio J.P. Lozada, The Register of Deeds of the City of Cebu" and docketed as Civil Case No. CEB-16159.

The RTC heard the cases jointly and upheld the validity of the Deed of Sale executed by Peregrina in favor of Antonio and declared the Deed of Donation executed by Anita in favor of Marissa as null and void.

The issues before the RTC were raised by the parties before the Court of Appeals, which affirmed the Order of the RTC. Marissa filed a Motion for Reconsideration but to no avail. Marissa then raised her case before the Supreme Court via a Petition for Review on Certiorari. In a Decision dated April 16, 2009, the Supreme Court resolved with finality the issues of the validity of the Deed of Sale and the Deed of Donation, and affirmed the Decision of the Court of Appeals. The Decision of the Supreme Court acquired finality on October 20, 2009.

While the cases were ongoing trial, Antonio executed a Deed of Assignment in favor of the Corporation in exchange for shares of stocks.

Defendants-appellees also filed a Motion to Dismiss[5] together with their Answer. Defendants raised therein that the complaint should be dismissed for being barred by prior judgment, laches, estoppel, and prescription. They further claimed that plaintiffs were not not parties in interest and had no cause of action against them. It was further posited that the correct filing fees were not paid.

Plaintiffs-appellants filed their Opposition to the Motion to Dismiss on June 17, 2010, while a Reply thereto was filed by defendants-appellees on July 1, 2010.

On September 20, 2010, the court a quo rendered the assailed Resolution[6] in favor of defendants-appellees, dismissing the case for res judicata. The court a quo ruled that the instant case is barred by final judgment in G.R. No. 172671.[7]

On September 30, 2010, plaintiffs-appellants filed a Notice of Appeal,[8] which was given due course on October 7, 2010.[9]

Hence, this Appeal[10]with the following assignment of errors:

I

THE LOWER COURT ERRED IN DISMISSING THE CASE AND IN HOLDING THAT ALL THE

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ELEMENTS OF RES ADJUDICATA ARE PRESENT.

II

THE LOWER COURT ERRED IN ENTERTAINING THE MOTION TO DISMISS WHEN AN ANSWER TO THE COMPLAINT HAD BEEN FILED BY THE DEFENDANTS-APPELLEES.

Plaintiffs-appellants claim that not all the elements of res adjudicata are present in the case at bar. They assert that the parties in Civil Case Nos. CEB-16125 and CEB-16159 are different from the parties in the instant case. Moreover, it is posited that the causes of action are different. Plaintiffs-appellants further contend that they would not be using the same evidence as that used by Marissa in Civil Case No. CEB-16159. Plaintiffs-appellants allege that there is no identity of interest with the parties in Civil Case Nos. CEB-16159 and 16145 as plaintiffs-appellants did not derive their rights from the parties in the aforesaid cases. Plaintiffs-appellants also assert that the motion to dismiss filed by defendants-appellees should not have been given due course because it should have been filed within the original period to file the answer and before the filing of the answer.

On the other hand, defendants-appellees contend that the issue regarding the validity of the Deed of Sale in favor of Antonio and the corollary issue of the ownership of the subject lots had already been settled by the courts and had obtained finality. Defendants-appellees assert that the instant case is barred by res judicata or at the very least, by stare decisis. Lastly, defendants-appellees posit that a motion to dismiss may still be filed notwithstanding the fact that a responsive pleading was also submitted.

The Ruling of the Court

On the Procedural Issue:

We are one with the court a quo in giving due course to the Motion to Dismiss. It is correct that the answer and the motion to dismiss are not mutually exclusive of each other, hence, may be filed together. In fact, in Associated Bank v. Spouses Montano, et al.,[11] which was cited by the court a quo in its Resolution, the Supreme Court ruled that a motion to dismiss may be filed even after the filing of the answer, viz:

> It is, therefore, inconsequential that petitioner had already filed an answer to the complaint prior to its filing of a motion to dismiss. The option of whether to set the case for preliminary hearing after the filing of an answer which raises affirmative defenses, or to file a motion to dismiss raising any of the grounds set forth in Section 1, Rule 16 of the Rules are procedural options which are not mutually exclusive of each other.

On the Substantive Issue:

Going now to the pivotal issue of whether or not res judicata is present in the instant case, We rule in the affirmative.

As a ground for the dismissal of a civil action, res judicata literally means “a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment.” Res judicata lays down 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.[12]

The doctrine of res judicata is set forth under Section 47 of Rule 39 of the 1997 Rules of Civil Procedure, which in its relevant part reads:

> Sec. 47. Effect of judgments or final orders. -- The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

> x x x
>
> (b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and
>
> (c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

For the doctrine to apply, four requisites must be met: (1) the former judgment or order must be final; (2) it must be a judgment or an order on the merits; (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 the second actions, identity of parties, of subject matter and of cause of action.[13] A judgment on the merits rendered in the first case constitutes an absolute bar to the subsequent action when the three identities are present.

All these requisites are present in this case.

First. Civil Case No. CEB-16159 had attained finality. The aforesaid case[14] appealed to the Supreme Court and docketed as G.R. No. 172671 entitled “Marissa Unchuan v. Antonio J.P. Lozada, Anita Lozada, and the Register of Deeds of Cebu City” was entered in the Books of Entries of Judgment of the Supreme Court on October 20, 2009.

Second. It is a fact that Civil Case No. CEB-16159 was resolved on the merits of the case. Moreover, the Supreme Court which finally settled the issues of this case in G.R. No. 172671 clearly had jurisdiction over the parties and the subject matter thereto.

Third. There is between Civil Case No. CEB-16159 and the instant case (Civil Case No. CEB-36548) identity of subject matter, cause of action, and parties.

We note that in both cases, the main subject matter in controversy is the Deed of Sale executed by Peregrina in favor of Antonio.

With respect to the identity of cause of action, the test to determine whether there is identity of cause of action is:

> Would the same evidence support and establish both the present and former cause of action? If so, the former recovery is a bar; if otherwise, it does not stand in the way of the former action.[15]

It is noted that Civil Case No. CEB-16159 was for “Declaration of Nullity of Deed of Sale and Cancellation of TCT Nos. 128322 and 128323”. The instant case, on the other hand, is for “Declaration of Deed of Sale as Void Ab Initio, Cancellation of TCT Nos. 133066 and 133067 as Null and Void Ab Initio, Accounting and Damages”.

A perusal of GR. No. 172671 reveals that in Civil Case No. CEB-16159, Marissa sought the declaration of nullity of the Deed of Sale executed by Peregrina in favor of Antonio on the ground that Peregrina could not have signed said deed since the latter was confined at the hospital on the date of its execution. Moreover, Marissa asserted therein that Anita had already donated to her (Marissa) Anita's share in the subject lots. In the present case, plaintiffs-appellants sought the declaration of nullity of the Deed of Sale executed by Peregrina in favor of Antonio on the ground that it violated their rights as heirs of Peregrina and Anita since the Deed of Sale is null and void because Peregrina could not have signed said deed, reasoning that Peregrina was confined at the hospital on the date of its execution and was afflicted with myelodysplastic anemia. Further, the subject TCT Nos. 133066 and 133067 in the present case covered the same subject lots, only that these titles canceled TCT Nos. 128322 and

128323, which were yet in the name of Antonio and subject matter of Civil Case No. CEB-16159.

Other than the fact that the parties made the same properties as the common subject of their respective complaints, it is clear that what is being determined in both cases is the validity of the Deed of Sale executed by Peregrina in favor of Antonio. In short, Marissa and plaintiffs-appellants assert rights which entail the same evidence upon which the parties could seek support for their individual causes of action - - the impossibility of Peregrina to execute the Deed of Sale with her physical condition at the date of execution thereof. Clearly, there is identity of cause of action.

As to identity of parties, suffice it to say that for purposes of res judicata, only substantial identity of parties is required and not absolute identity. There is substantial identity of parties when there is a community of interest between a party in the first case and a party in the second case even if the latter was not impleaded in the first case.[16]

True, plaintiffs-appellants were not parties in Civil Case No. CEB-16159, however, their claim in the instant case and that of Marissa in Civil Case No. CEB-16159 raised exactly the same argument or reason in trying to invalidate the subject Deed of Sale -- that it was fraudulently contracted based on the contention that Peregrina could not have validly executed the same. It appears that the reliefs prayed for separately by them are inextricably linked with one another. Apparently, plaintiffs-appellants and Marissa shared an identity of interest from which flowed an identity of relief sought, namely, to declare the nullity of the Deed of Sale. Notably, privity or a shared identity of interest between a party in the first case and the party in the second case is sufficient to invoke the coverage of the principle.[17] Absolute identity of parties is not required, and where a shared identity of interest is shown by the identity of the relief sought by one person in a prior case and the second person in a subsequent case, such was deemed sufficient.[18]

Recall that when material facts or questions in issue in a former action were conclusively settled by a judgment rendered therein, such facts or questions constitute res judicata and may not be again litigated in a subsequent action between the same parties or their privies regardless of the form of the latter. This is the essence of res judicata or bar by prior judgment. The parties are bound not only as regards every matter offered and received to sustain or defeat their claims or demand but as to any other admissible matter which might have been offered for that purpose and of all other matters that could have been adjudged in that case.[19] Moreover, a change in the form of the action or in the relief sought does not remove a proper case from the application of res judicata.[20] Thus, the filing of this case for cancellation of TCT Nos. 133066 and 133067 where the validity of the Deed of Sale, again, is in issue has already been settled in Civil Case No. CEB-16159 that has already attained its finality on October 20, 2009 by virtue of the SC Decision in G. R. No. 172671.

Clearly, a dismissal of this case is necessary. It is to the interest of the public that there should be an end to litigation by the parties over a subject fully and fairly adjudicated — republicae ut sit finis litium.[21] And an individual should not be vexed twice for the same cause - nemo debet bis vexari pro eadem causa.[22]

WHEREFORE, the instant appeal is DENIED. The Resolution dated September 20, 2010 of Branch 17, Regional Trial Court of Cebu City is AFFIRMED.

SO ORDERED.

Maxino, and Diy, JJ., concur.

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[1] Records, p. 369.

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[2] Records, p. 2.

[3] Ibid., p. 64.

[4] Daughter-in-law of plaintiff-appellant Estelita Unchuan.

[5] Records, p. 203.

[6] Supra, Note 1.

[7] Entitled, “Marissa Unchuan v. Antonio J.P. Lozada, Anita Lozada, and the Register of Deeds of Cebu City” (Consolidated Cases involving Civil Case Nos. CEB-16145 and CEB-16159).

[8] Ibid, p. 373.

[9] Ibid., p. 378 (Order).

[10] Rollo, p. 9.

[11] G.R. No. 166383, October 16, 2009.

[12] Oropeza Marketing Corporation v. Allied Banking Corporation, 441 Phil. 551, 563 [2002].

[13] Heirs of de Leon vda de Roxas v. Court of Appeals, G.R. No. 138660, February 5, 2004, citing Rovels Enterprises, Inc. v. Ocampo, G.R. No. 136821, October 17, 2002; Quezon Province v. Hon. Marte, 420 Phil. 177 [2001].

[14] Consolidated with Civil Case No. CEB-16145.

[15] GSIS v. Group Management Corporation (GMC), et al., G.R. No. 167000, G.R. No. 169971, June 8, 2011, citing Peñalosa v. Tuason, 22 Phil. 303 [1912].

[16] Felipe v. Fil-Estate Golf and Development, Inc., G.R. No. 150470, August 6, 2008.

[17] Crucillo v. Office of the Ombudsman, G.R. No. 159876, G.R. No. 159877, June 26, 2007, citing Lanuza v. Court of Appeals, G.R. No. 131394, March 28, 2005.

[18] Pentacapital Investment Corporation v. Mahinay, G.R. No. 171736, G.R. No. 181482, July 5, 2010, citing Estate of Don Filemon Y. Sotto v. Palicte, G.R. No. 158642, September 22, 2008.

[19] Barbacina v. Court of Appeals, G.R. No. 135365, August 31, 2004, citing Dela Rama v. Mendiola, G.R. No. 135394, April 29, 2003.

[20] Carlet v. Court of Appeals, G.R. No. 114275, July 7, 1997, citing Medija v. Patcho, G.R. No. L-30310, October 23, 1984.

[21] See Manila Electric Co. v. Philippine Consumers Foundation, Inc., G.R. No. 101783, January 23, 2002.

[22] Carlet v. Court of Appeals, supra Note 21.

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