

RAMON SANTOS, PETITIONER AND APPELLANT, VS. HON. FRANCISCO GERONIMO, AND ILDEFONSO TIERRA, ET AL., RESPONDENTS AND APPELLEES.*G. R. No. L-3999. August 23, 1951*

Ponente: BAUTISTA ANGELO, J.

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On August 1, 1946, a contract of lease was entered into between Maria Mutoc and Ramon Santos over a lot situated in the city of Manila for a period of two (2) years wherein the lessee, Ramon Santos, was given the right to construct thereon a building suitable for business subject to its removal by the lessee upon the expiration of the period of lease. Subsequently, the lessee built thereon a house of strong materials. Sometime in October, 1947, Maria Mutoc, the lessor, sold the lot to Lourdes Tierra, and in January, 1948, the latter sold it to Ildefonso Tierra in his capacity as guardian of certain minors. No provision was made in the deeds of sale regarding the disposition of the building constructed thereon by the lessee. Because of his desire to take possession of the lot, Ildefonso Tierra, in the capacity above mentioned, filed an action for ejectment against the lessee in the Municipal Court of Manila on February 17, 1948, which was dismissed on the ground that the period of the lease has not yet expired. In the meantime, the life of the lease was coming to an end, and desiring to protect his investment, Ramon Santos brought an action against the lessor, Maria Mutoc, and the subsequent transferees Lourdes Tierra and Ildefonso Tierra, in the Court of First Instance of Manila, praying that he be awarded an indemnity in the amount of P12,000 for the house he had built on the lot under article 361 of the Civil Code, plus damages in the amount of P3,000. The complaint was filed on April 8, 1948. On August 18, 1948, following the expiration of the contract of lease, Ildefonso Tierra filed another complaint for ejectment against Ramon Santos claiming the right to possess the land in view of the expiration of the lease. Ramon Santos filed a motion to dismiss alleging the pendency of the civil case for damages over the same subject matter and between the same parties in the Court of First Instance of Manila. This motion was denied for lack of merit. As a result, Ramon Santos filed a petition for certiorari with preliminary injunction in the Court of First Instance of Manila claiming that the respondent judge acted in excess of his jurisdiction. The court granted the injunction. But, after trial, the court dismissed the petition for lack of merit, hence this appeal.

The only question submitted to us for determination is whether the lower court erred in not holding that the second case of ejectment filed by Ildefonso Tierra against Ramon Santos in the municipal court of Manila is improper and should have been dismissed in view of the pendency of the civil case for damages between the same parties and concerning the same subject matter in the Court of First Instance of Manila. Appellant contends that the lower court should have ordered the respondent judge to desist from trying the ejectment case for the reason above mentioned and, therefore, it was error on its part to dismiss the petition because it clearly appears that the respondent judge had no jurisdiction to try the case.

There is no merit in this contention. The test to determine if two actions are identical such that judgment in one will be a bar to judgment in the other has been well stated by this Court in the case of *Hongkong & Shanghai*

Bank vs. Aldecoa, 30 Phil., 255. In that case it was held that, to sustain the plea of another action, "there must be the same parties, or at least such as represent the same interests. There must be the same rights asserted and the same relief prayed for. This relief must be founded on the same facts, and the title or essential basis of the relief sought must be the same. The identity in these particulars should be such that if the pending case had already been disposed of, it could be pleaded in bar as a former adjudication of the same matter between the same parties."

These elements are not present here, for the two cases are distinct from each other not only as regards the parties but also as regards the cause of action. Thus, in the ejectment case the parties are Ildefonso Tierra on one hand and Ramon Santos on the other; the subject matter are the lot and house in question; and the cause of action or relief is the recovery of the premises, plus the rentals due and unpaid. In the case for damages, the parties are Ramon Santos on one hand and Maria Mutoc, Ildefonso Tierra and Lourdes Tierra on the other; the subject matter are the same lot and house; but the cause of action or relief are the damages allegedly suffered by the plaintiff. It is clear that in the two cases there is no identity of parties, cause of action, or relief, inasmuch as they are two distinct cases. Judgment in one cannot be a bar to judgment in the other.

There is another aspect to be considered in this appeal. It should be noted that, when this case was appealed to this Court, the writ of preliminary injunction issued by the lower court was dissolved upon respondent's filing a bond in the amount of P5,000. Then the ejectment case was continued in the absence of the defendant who failed to appear or answer the complaint. Judgment was rendered for the plaintiff. Defendant did not appeal and so the judgment became final and executory. As a consequence, a writ of execution was issued and the same is now in the process of enforcement. It, therefore, results that the *raison d'être* of the case of certiorari has now become moot which renders this appeal of no useful purpose.

Wherefore, the decision appealed from is hereby affirmed, with costs against the appellant.

Paras, C. J., Pablo, Bengzon, Padilla, Tuason, Reyes and Jugo, JJ., concur.

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