

MANILA ELECTRIC COMPANY, PETITIONER, VS. COURT OF APPEALS AND PEDRO J. VELASCO, RESPONDENTS.

G.R. No. L-33794. May 31, 1982

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

In this Petition for the review of a Decision of the Court of Appeals,[1] judgment may be rendered on the basis of the following enumeration of facts:

1. On February 12, 1948, respondent Pedro J. Velasco (VELASCO, for short) purchased three (3) lots from the People's Homesite and Housing Corporation (PHHC, for short), located at the corner of the then South D and South 6 Streets of Quezon City.

2. The Deed of Sale, among others, provided that:

"(b) The properties herein sold and any other construction that shall be made thereon shall be used exclusively for residential purposes and no business, industry or factory of whatever kind or nature shall be allowed or permitted within the pre-mises.

x x x

"(c) The vendor ... shall have the right . . . to enter the premises . . . for the purpose of . . . installing . . . electric . . . lines or any other utility for the community.

x x x

"II. This sale is made under the following terms and conditions the violation of any of which shall entitle the Vendor to rescind this contract and seek the cancellation of the title issued as a result hereof and to repossess the property and dispose of the same as if there had been no previous sale thereof, and said terms and conditions shall like-wise be annotated on the certificate or title concerned and considered a burden to the property.

x x x

"III. The terms, burdens, con-ditions, limitations, incumbrances and restrictions herein contained shall be binding upon the heirs, executors, administrators, successors and assigns of the respective parties hereto and any reference to the Vendor or Vendee herein shall be understood to include their respective heirs, executors, administrators, successors and assigns."

The foregoing conditions were substantially, but not word for word, annotated on the title issued to VELASCO.

3. On January 31, 1952, VELASCO sold two of the afore-said three lots (the PROPERTY, for short) to petitioner Manila Electric Company (MERALCO, for short), which is the public service company furnishing electric current to the Manila area, including Quezon City.

4. The following year, MERALCO established a sub-station within the PROPERTY, the construction of which "was started in September, 1953 and was finished the following November".[2]

5. On November 29, 1954, VELASCO wrote a letter to MERALCO stating, inter-alia:

"In mild spirit, the time has come when the undersigned is com-pelled to call your attention to a previously anticipated would-be effect of your electric sub-station, in order to avoid possible bad effects and 'repercussions and com-plications' which might be too late to remedy."

x x x

"The undersigned with his family tried to tolerate for a while, but the severe noise without let up, plus the electrification of the ground, especially that in which the artesian well of the undersigned is located, made life of the whole family unbearable, in a residential district which, by your sub-station, was illegally converted into dangerous factory-like site." (Exhibit "J")

6. The following year, on February 1, 1955, VELASCO filed a complaint in Civil Case No. Q-1355 of the Court of First Instance of Rizal (the NUISANCE CASE, for short) praying that MERALCO be ordered "to remove and abate the nuisances herein complained against," with damages. The trial Court dismissed the complaint but, on appeal to this Court, the dismissal was set aside and, on August 6, 1971, MERALCO was "ordered to either transfer its sub-station at South D and South 6 Streets, Diliman, Quezon City, or take appropriate measures to reduce its noise at the property line between the defendant company's compound and that of the plaintiff-appellant to an average of forty (40) to fifty (50) decibels within 90 days from finality of this decision;".[3]

7. In the meanwhile, on November 23, 1957, VELASCO had instituted a complaint in Civil Case No. Q-2716 of the Court of First Instance of Rizal (the CANCELLATION CASE, for short) for the rescission of the sale of the PROPERTY to MERALCO and to collect rentals for the use and occupation of the PROPERTY while in the latter's possession. The com-plaint was dismissed by the trial Court on the ground that the NUISANCE CASE and the CANCELLATION CASE had split VELASCO's cause of action such that the CANCELLATION CASE was precluded from being instituted. On appeal to the Court of Appeals, the judgment of the trial Court was reversed on the finding that no cause of action was split, considering that abatement of nuisance was distinct and separate from rescission of the contract of sale in favor of MERALCO.

Upon the recited facts, we have resolved to set aside the decision of the Appellate Tribunal, and to dismiss the complaint in the CANCELLATION CASE. The factors relied upon are:

THE RIGHT OF ACTION - The contract of sale between PHHC and VELASCO provided that only constructions exclusively for "residential purposes" shall be built on the PROPERTY. That requirement, naturally, was binding on VELASCO himself, as it is also binding on MERALCO as his assignee. Be that as it may, that contract implies that it is PHHC itself which has the right of action against any assignee of VELASCO. Cancel-lation of the title to the PROPERTY would be by virtue of the condition imposed in the PHHC-VELASCO contract, and not by virtue of the contract between VELASCO and MERALCO.

The exact relevant wording of the contract between PHHC and VELASCO was as follows:

".... the violation of any of which (inclusive of the 'residential purposes' restriction) shall entitle the vendor (PHHC) to rescind this contract and seek the cancellation of the title issued as a result hereof and to repossess the property."

It will be seen that if the PROPERTY were used by VELASCO himself not for "residential purposes", PHHC can rescind "this contract", which is the contract between PHHC and VELASCO, and PHHC can "seek the cancellation of the title" issued as a result "of this contract". The PROPERTY having been transferred to

MERALCO, PHHC cannot rescind the contract between VELASCO and MERALCO because PHHC was not a party to that VELASCO-MERALCO contract. PHHC's redress would be to directly "seek cancellation of the title" of MERALCO, and to repossess the PROPERTY.

Considering that redress for the use of the PROPERTY for non-residential purposes is the cancellation of the title and repossession by PHHC, it should be clear that the right of action based on violation of the restriction has to be with PHHC and not with VELASCO. If title to the PROPERTY is cancelled, and PHHC repossesses, no damage will be suffered by VELASCO who had already sold and had received the value thereof. The damage will be borne solely by MERALCO. Hence, it cannot be that VELASCO can have a right of action against MERALCO for violation of the restriction.

RESIDENTIAL PURPOSES - As the Court understands it, PHHC's requirement in regards to "residential purposes" has not been made particularly in reference to the three lots sold to VELASCO, but it relates to the entirety of a bigger parcel of land subdivided for sale to the public by PHHC. The term "residential purposes", therefore, should be given a meaning viewed from the standpoint of PHHC, and not from that of VELASCO.

From the PHHC, or community, point of view, the construction of an electric sub-station by the local electric public service company within the subdivision can be deemed encompassed within "residential purposes" for the simple reason that residences are expected to be furnished with electrical connection. If there is no electric current because of the lack of a sub-station, the residences within the entire subdivision area could be valueless for residential purposes.

The need for public services in residential areas is even recognized in the PHHC Deed of Sale in favor of VELASCO which provides that "the vendor shall have the right to enter the premises for the purpose of installing water pipes, gas, electric and telephone lines or any other utility for the community where the property herein involved is located".

It may further be pointed out that, in respect of Quezon City as a municipal corporation, the PROPERTY was within a residential district. Notwithstanding, the authorities of Quezon City granted a permit for the construction of the sub-station, thereby conceding that a sub-station is not necessarily non--residential.

CONTRACTUAL ESTOPPEL - Even if the requirement for "residential purposes" were a condition imposed by VELASCO himself in the contract of sale between VELASCO and MERALCO, the former can no longer cancel the contract on the alleged violation of the condition. When MERALCO erected the sub-station in September, 1953, VELASCO did not object to its construction as such. In his letter, Exhibit "M", dated September 26, 1953, VELASCO merely asked for "technical assurance that your electric sub-station is not dangerous to neighbors nor would that be a nuisance". It could not be that he did not then realize that the sub-station was not a residence. He must have viewed it as for "residential purposes". According to Exhibit "J", VELASCO's letter of September 29, 1954, or one year after the sub-station had been established, he "with his family tried to tolerate (it) for a while". Actually, what was ultimately objected to by VELASCO was the noise of the sub-station; but there was no original and timely objection to the establishment itself of the sub-station as being not for residential purposes. If there had been no noise whatsoever from the substation, no controversy would have arisen.

Contracts should be given effect as the parties construe it. "Acts done by the parties to a contract in the course of its performance are admissible in evidence upon the question of its meaning as being their own contemporaneous interpretation of its terms".[4] Thus, VELASCO should be held as estopped from seeking cancellation of his sale of the PROPERTY to MERALCO because the sub-station, while it was built, was considered by VELASCO as not violative of the requirement for "residential purposes". Estoppel against VELASCO has set in.

COLLATERAL ESTOPPEL BY JUDGMENT - MERALCO had pleaded before the trial Court that the filing of the NUISANCE CASE "has barred the filing of the complaint in this" CANCELLATION CASE. The trial Judge dismissed the Complaint on the ground that the NUISANCE CASE and the CANCELLATION CASE had split a single cause of action and that the CANCELLATION CASE being the later proceeding was improperly instituted. We agree with the Appellate Tribunal that there was no split of a single cause of action, because the cause of action for abatement of nuisance is different from a cause of action for cancellation of contract. However, it does not mean that a judicial proceeding cannot be barred by a previous case involving another cause of action. The principle applicable would be estoppel by judgment or, more specifically, "collateral estoppel by judgment". That procedural matter is treated in 46 Am Jur 2d. pp. 563-566 as follows:[5]

"Although there are some cases that confine the term 'res judicata' to that aspect of the doctrine which precludes the relitigation of the same cause of action the term, in its literal meaning of a 'matter adjudged', is broad enough to include, in addition, the other aspect of the doctrine, which precludes the relitigation of the same facts or issues in a subsequent action on a different cause of action, and the term 'res judicata' is, indeed, so used in numerous cases. In this respect, it has been declared that if a party is barred from relitigating a matter, it can make little difference to him by what name the lethal doctrine is called. On the other hand, the confusion and looseness of thought resulting from the absence of distinctive terms to describe each aspect of the doctrine has been well pointed out.

The term 'estoppel' has frequently been used in connection with the doctrine of res judicata, not only with respect to the relitigation of particular issues in a subsequent action on a different cause of action, but also with respect to the relitigation of the same cause of action. In some cases, the term 'estoppel by judgment' has been used to describe the effect of a judgment to preclude relitigation of the same cause of action, and the phrase, 'estoppel by verdict', to describe the effect of the former proceeding to preclude further litigation of the particular facts on which the jury necessarily made findings in the former action. The decisions have not, however, been uniform in this respect, and in some opinions the term 'estoppel by judgment' has been used to describe the rule precluding the relitigation of particular issues in a subsequent action on a different cause of action. Sometimes, the term 'estoppel by record' is so used. The more recent tendency is to describe the latter aspect of the doctrine of res judicata as a 'collateral estoppel' or a 'collateral estoppel by judgment', as distinguished from the 'direct estoppel by judgment' where the earlier and later causes of action are identical."[6]

More and more, the tendency of procedural law is to obviate multiplicity of suit such that if an issue has been resolved in one cause of action, it cannot be relitigated in a subsequent case filed on a different cause of action. In *Hoag v. New Jersey*, 2L Ed. 2d., 913-919, the following was said by the United States Supreme Court:

"A common statement of the rule of collateral estoppel is that 'where a question of fact essential to the judgment is actually litigated and determined by a valid and final judgment, the determination is conclusive between the parties in a subsequent action on a different cause of action'. Restatement, Judgments, #68(1). As an aspect of the broader doctrine of res judicata, collateral estoppel is designed to eliminate the expense, vexation, waste, and possible inconsistent results of duplicatory litigation. See *Developments in the Law - Res Judicata*, 65 Harv L Rev 818, 820." (Emphasis supplied)

In a previous case, this Court has similarly stated:

"The basis of the judgment was the stipulation of facts submitted by the parties and their agreement fixing the liability of the defendant therein for rentals and the manner in which the same was to be paid by him. It was a final judgment on the merits, and said judgment, under the express provisions of section 44, paragraph (b) of Rule 39 of the Rules of Court, is conclusive between the parties, not only as to the question on which the parties made stipulation but also as to any other possible issue which the parties could have raised in the case. The fact that the defendant in that action, plaintiff-appellant in this, did not raise that issue in the previous case

is no reason for allowing him to raise the same issue in the action he has instituted to annul the said judgment. The principle of res judicata applicable is what is known as estoppel by judgment and in the language of Mr. Justice Field in the case of *Crowmwell vs. Sac Country*, 94 U.S., 351, cited in *Peñaloza vs. Tuason*, 22 Phil., 303, 'It is a finality as to the claim or demand in controversy, concluding parties and those in privity with them, not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose.'"[7]

When VELASCO instituted the NUISANCE CASE, he conceded, which he is now estopped to deny, that MERALCO had the right to establish the sub-station within the PROPERTY without violation of the restriction to "residential purposes". What he subsequently alleged, after the sub-station had become operative, was that the sub-station, because of the generated noise, had become a nuisance which should be abated. Although the propriety of the establishment of the sub-station was not a controverted matter in the NUISANCE CASE, it was a tacit admission on the part of VELASCO, which can form part of an estoppel within the NUISANCE CASE. It would not be good law to allow him now to take the position, even if he had the right of action, that the construction of the sub-station violated the restriction provided for by PHHC. If the present standpoint of VELASCO should be upheld, then the procedurally wrong result would be that, after this Court had decided that the substation can remain within the PROPERTY with reduction of the noise, the Appellate Tribunal, a subordinate tribunal, can subsequently nullify the decision of this Court and order the removal of the sub-station from the PROPERTY.

WHEREFORE, considering the foregoing legal considerations, the Decision and Resolution of respondent Court of Appeals in its CA-G.R. No. 30488-R are reversed, and the Complaint filed in the case at bar is ordered dismissed.

Without costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Plana, Relova, and Gutierrez, Jr., JJ., concur. Vasquez, J., no part.

[1] Penned by Justice Magno S. Gatmaitan and concurred in by Justices Ruperto G. Martin and Arsenio F. Solidum.

[2] 109 Phil. 603 (1960).

[3] 40 SCRA 342 (1971).

[4] *Kriedt v. E.C. McCullough & Co.*, 37 Phil. 474 (1918).

[5] *Durfee v. Duke*, 375 US 106, 11 L Ed 2d 186, 84 S Ct 242; *Hoag v. New Jersey*, 356 US 464, 2 L Ed 2d 913, 78 S Ct 829, reh den 357 US 933, 2 L Ed 2d 1375, 78 S Ct 1366; *Partmar Corp. vs. Paramount Pictures Theatres Corp.* 347 US 89, 98 L Ed 532, 74 S Ct 414, reh den 347 US 931, 98 L Ed 1083, 74 S Ct 527; *St. Lo Construction Co. vs. Koenigsberger*, 84 App DC 319, 174 F2d 25, 10 ALR 2d 349, cert den 338 US 821, 94 L Ed 498, 70 S Ct 66; *United States v. Silliman* (CA3 NJ) 167 F2d 607, cert den 335 US 825, 93 L Ed 379, 69 S Ct 48.

[6] 46 Am Jur 2d, pp. 563-566.

[7] *Miranda vs. Dominguez*, 96 Phil. 526, 529-530 (1955).

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