

ORLANDO A. RAYOS, PLAINTIFF-APPELLANT, VS. REMEDIOS V. CARONONGAN, PATRIA R. SERRANO, ROBERTO R. SERRANO, TEOFILA B. SISON, PAZ V. SISON, MANUEL B. SISON, WILFREDO B. SISON, LET...

Ponente: VILLON, J.

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VILLON, J.:

This is an appeal under Rule 41 of the 1997 Rules of Civil Procedure, as amended, from the Joint Order dated December 11, 2009[1] issued by the Regional Trial Court (RTC), Branch 198, Las Pinas City, in Civil Case No. LP-09-0064, for Specific Performance and Breach of Contract, the dispositive portion of which reads:

“WHEREFORE, in view of the foregoing, the instant complaint filed by Orlando Rayos (Civil Case 09-0064) is hereby DISMISSED on the ground of res judicata. As regards the motion and counterclaim to cite counsels in contempt of court, the same are DENIED, for lack of merit.

SO ORDERED.”

The facts of the case, as culled from the records are:

Sometime in March 2007, plaintiff-appellant Orlando A. Rayos filed a Complaint for Specific Performance, Breach of Contract and Damages against defendants-appellees Remedios V. Caronongan, Patria R. Serrano, Roberto R. Serrano, Teofila B. Sison, Paz V. Sison, Manuel B. Sison, Wilfredo B. Sison, Leticia R. Ventanilla (nee Loreto) and Rosalinda B. Barrozo with the RTC of Las Pinas City, which was docketed as Civil Case No. LP-07-0071. The case was raffled off to Branch 275 thereof. In the complaint, appellant sought the enforcement of a purported contract authorizing him to work for the demolition of some structures on a property in Tondo co-owned by the herein parties and, to ultimately sell the same. Appellees, however, allegedly stopped the demolition and refused to honor the terms of their contract, to appellant's damage and prejudice. Thus, appellant sought relief from the court to direct appellees to reimburse or indemnify him for the expenses that he already incurred relative to his undertaking under the contract.

Upon appellees' motion to dismiss and after due hearing, the trial court issued the Order dated April 10, 2008[2] dismissing the Complaint in Civil Case No. LP-07-007, to wit:

"WHEREFORE, in the light of the foregoing, the Motion to Dismiss filed by the defendants is hereby GRANTED. Let the Amended Complaint of the plaintiff be dismissed as it is hereby DISMISSED. As a consequence, the five other pending incidents are considered moot and academic.

SO ORDERED."

Appellant challenged the above Order before this Court via a special civil action for certiorari under Rule 65, docketed as CA-G.R. UDK-SP No. 5939. In a Resolution dated May 6, 2008,[3] the then Ninth Division of this Court dismissed the said petition, the same being a wrong mode of appeal, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, the instant petition for certiorari, filed with the Court of Appeals, is hereby DISMISSED.

SO ORDERED."

Appellant's motion for reconsideration was denied in the Resolution dated July 9, 2008.[4]

Unperturbed, appellant filed a petition for review on certiorari with the Supreme Court, which case was docketed as G.R. No. 183980. For failure of appellant to sufficiently show that the Court of Appeals committed any reversible error in the challenged resolution, the petition was denied by the Supreme Court in a Resolution dated August 20, 2008.[5] The Resolution attained finality on January 28, 2009.[6]

On March 10, 2009, appellant filed another Complaint for Specific Performance and Breach of Contract[7] against herein appellees with the RTC of Las Pinas City, which was docketed as Civil Case No. LP-09-0064 (subject of the present appeal) and was raffled off to Branch 198. Basically, the complaint was anchored on appellees' alleged breach of their obligation, specifically, authorizing appellant to secure writs and orders of demolition with respect to the structures found on subject property. His authority was allegedly revoked for unknown reasons, for which reliefs from the court were prayed for.

Appellant filed an ex-parte motion to serve summons by extraterritorial service[8], but the same was denied in the RTC Order dated August 24, 2009.[9] The court ordered that summons be served at the given addresses of appellees.

Appellees filed an "Omnibus Motion to Dismiss and to Cite Plaintiff in Contempt of Court"[10] on the following grounds:

- a) the complaint is barred by res judicata or prior judgment; and,
- b) appellant is guilty of forum shopping.

On December 11, 2009, the trial court issued the assailed Joint Order in the terms earlier set forth.

Hence, this appeal anchored on the following assigned errors:[11]

- I. THE RTC OF LAS PINAS, BRANCH 275 IN CIVIL CASE NO. 07-0071 COMMITTED AN ERROR WHEN IT DISMISSED THE COMPLAINT BASED ON A MOTION TO DISMISS, SINCE THERE IS A CAUSE OF ACTION.
- II. THE DISMISSAL ON GROUNDS OF RES JUDICATA IS SIMILARLY PREEMPTORY AND ERRONEOUS SINCE THERE WAS NO TRIAL ON THE MERITS IN CIVIL CASE NO. 07-0071, THEREFORE NO EVIDENCE PRESENTED, SO THERE CAN BE NO RES JUDICATA, SINCE THERE WAS NO ADJUDICATION ON THE MERITS.

The appeal is without merit.

The resolution of this case hinges on the principal issue of whether or not the dismissal of the complaint in the first case (Civil Case No. LP-07-0071) on the ground of failure to state a cause of action operates as res judicata in the present case (Civil Case No. LP-09-0064). Appellant admits that the cause of action alleged in the complaint in the present case is practically the same as that alleged in the first case. However, he argued that the order of dismissal in the first case was not an adjudication on the merits, there being no trial conducted and no evidence presented therein. Appellant contends that the judgment dismissing the first case for failure to state a cause of action was not a judgment on the merits. Appellees argue otherwise.

A case is barred by prior judgment or res judicata if the following elements concur: (1) the judgment sought to bar

the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second action, identity of parties, subject matter, and causes of action.

Should identity of parties, subject matter, and causes of action be shown in the two cases, then res judicata in its aspect as a "bar by prior judgment" would apply. In this instance, the judgment in the first case constitutes an absolute bar to the second action.[12]

In dismissing the first case, the trial court held that:

"Plaintiff [appellee] in his Amended Complaint, wants this Court to enforce the alleged contract between him and defendants by directing the latter to reimburse the plaintiff the expenses incurred in the demolition. Aside from the mere mention of the contract which apparently is silent on the matter of plaintiff financing the demolition, plaintiff stated no more and cited no other basis why he is entitled to said reimbursement. The Amended Complaint is unambiguous and uncertain as to what right plaintiff stands on to pursue his cause of action.

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"Notably plaintiff did not refute the allegations made by the defendants in their Motion to Dismiss. If indeed the authority to finance the demolition is part of the agreement by the defendants with the plaintiff, the latter could have simply pointed out in his Opposition (re: Motion to Dismiss) but this he miserably failed to do and instead made the following averments, to wit:

'8. Plaintiff has a very good (cause) of action as spelled out in ANNEX 'B' of the Amended Complaint, by the Resolution of the Asst. Prosecutor therein as remedy for a breach of contract which is by specific performance or rescission, which in both cases, damages may lie. And who are the defendants who say, that plaintiff does have a cause of action, they do not have a defense at all, and all they do is DELAY, DELAY and DELAY, of which their Counsel is their instrument, a good lawyer telling lies and who use ascerbic statements which might earn him a disbarment case.'

"The foregoing contention of the plaintiff is highly out of context. The prosecutor only opines that, 'if ever complainant (plaintiff herein) incurred damage, the same is pursuable by filing a civil action for damages due to breach of contract or for specific performance or rescission of contract with damages anchoring his action on Article 1170 of the Civil Code x x x'. But, that is merely the opinion of the prosecutor, which can not provide the plaintiff with a cause of action nor bind this Court.

"At any rate, it is not enough that a party has in fact, a cause of action. Plaintiff must adequately state in his complaint that he has a cause of action. Thus, it might truly be that one has a cause of action but if he failed to adequately state that in a complaint, dismissal thereof can follow. Plaintiff's reliance on the statement of the prosecutor would take him nowhere but the dismissal of his complaint."[13]

While the ground for dismissal in the first case was the plaintiff's "failure to state a cause of action", and no trial was conducted therein, the order of dismissal was still a judgment on the merits and operated as res judicata in the present case. A ruling based on a motion to dismiss, issued without any trial on the merits or formal presentation of evidence, can still be a judgment on the merits.[14] A judgment is "on the merits" when it amounts to a legal declaration of the respective rights and duties of the parties, based upon the disclosed facts.[15]

In the case of Manalo vs Court of Appeals[16], the Supreme Court ruled that res judicata had barred the subsequent complaint despite the absence of a trial in the first case. Thus, the order of dismissal in Civil Case No. LP-007-0071 effectively barred the prosecution of the present case. Too, appellant admits that the complaints in both cases are practically similar.[17]

Finally, as aptly pronounced by the trial court, undisputed here is the existence of identity of parties, causes of action and reliefs sought in both cases. And, it is settled that if two or more suits are instituted on the basis of the same cause of action, the filing of one or a judgment upon the merits in any one is available as a ground for the dismissal of the others.[18] This Court, therefore, will not reverse the trial court's appreciation of the existence of res judicata, the same being in accord with law and applicable jurisprudence.[19]

WHEREFORE, premises considered, the present appeal is DENIED for lack of merit. The assailed Joint Order dated December 11, 2009 of the court a quo is hereby AFFIRMED.

SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Macalino, F.S., and [*]Galapate-Laguilles, Z.T., JJ., concur.

[*] Vice Justice L.R. Dimagiba per Office Order No. 74-14-ABR dated February 28, 2014.

[1] Rollo, pp. 46-49

[2] Records, pp. 461-465

[3] Records, pp. 466-467

[4] Records, p. 468

[5] Records, p. 12

[6] Entry of Judgment, Records, p. 469

[7] Records, p. 90

[8] Records, p. 90

[9] Records, pp. 313-314

[10] Records, pp. 488-506

[11] Rollo, p. 41, Appellant's Brief, p. 2

[12] Agustin vs Delos Santos, 576 SCRA 576

[13] Order dated April 10, 2008, Records, pp. 464-465

[14] Cruz vs Court of Appeals, 482 CRA 379

[15] Escarte Jr. vs Office of the President, 192 SCRA 1

[16] 357 SCRA 112

[17] Rollo, pp. 40-41, Appellant's Brief, pp. 1-2

[18] Section 4, Rule 2, 1997 Rules of Civil Procedure, as amended

[19] Tugade vs Court of Appeals, G.R. No. 120874, July 31, 2003

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