

ISIDORA SALUD, PETITIONER, VS. THE COURT OF APPEALS AND MELANIA GUERRERO, RESPONDENTS.*G.R. No. 100156. June 27, 1994*

Ponente: PUNO, J.

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This petition for review on certiorari under Rule 45 of the Rules of Court assails the unjust application of the doctrine of res judicata to a non-party to a case. As the stringent, mechanical application of res judicata to the case at bench will work injustice, we grant the petition.

The facts in brief:

Petitioner Isidora Guerrero Salud and her late husband, Eusebio B. Salud, are the registered owners of an undivided one-half (1/2) share in certain parcels of land situated in Bacoor, Cavite. They are referred to as the Poblacion and Habay properties and the San Nicolas property, respectively covered by TCT No. RT-9269 and TCT No. RT-9268 of the Cavite City Register of Deeds.[1] To be exact, these properties are registered in the name of "Isidora Guerrero ... married to Eusebio Salud, and Clemente Guerrero ... married to Melanie Andico." Petitioner Isidora Guerrero Salud and Clemente Guerrero are sister and brother. The latter is the deceased husband of private respondent.

On October 20, 1967, petitioner and her late husband, executed a deed wherein they sold their one-half (1/2) share in the Poblacion property to their daughter Maripol Guerrero for TWO THOUSAND PESOS (P2,000.00), while the Habay property was sold to their children Norma Salud Vianzon and Eusebio G. Salud, Jr., for FIVE THOUSAND PESOS (P5,000.00).[2]

On November 3, 1967, petitioner and her late husband, also sold their one-half (1/2) share in the San Nicolas property in favor of their children Eusebio Salud, Jr., and Teodoro G. Salud for THREE THOUSAND PESOS (P3,000.00).[3]

After the execution of the deeds, it is alleged that petitioner and her late husband changed their minds. They did not register the deeds of sale. Instead, they continued in possession of the properties, and exercised other acts of ownership, including the mortgaging of the lots subject of the deeds.

The relationship between the Salud and Guerrero families soured. On June 4, 1980, the late Clemente Guerrero, husband of private respondent, filed with the Court of First Instance (CFI), now Regional Trial Court (RTC) of Cavite, two (2) complaints docketed as Civil Cases No. 3022 and 3023. In Civil Case No. 3022, he sued Eusebio Salud, Jr., the spouses Norma Salud and Artemio Vianzon and Maripol Guerrero. In Civil Case No. 3023, he sued Eusebio Salud, Jr., and Teodoro G. Salud. He sought to exercise his right of redemption as a co-owner of the controverted properties.

In Civil Case No. 3022, defendants were declared in default. Petitioner claims that said defendants were then in the United States and were unable to answer the Complaint. On February 19, 1982, the then CFI of Cavite

rendered a decision granting the late Guerrero the right to redeem the properties in question. The Court of Appeals affirmed the decision which became final and executory on July 31, 1986. Efforts of petitioner to intervene in the appellate court were in vain.

On the other hand, the Complaint in Civil Case No. 3023 was tried on its merit. Teodoro G. Salud was able to answer Guerrero's Complaint. After trial, the trial court dismissed the Complaint on January 10, 1982. It held that the late Guerrero had no right to redeem the litigated property as its sale "is not in esse." The Court of Appeals, in G.R. No. CV-2529, also affirmed this Decision.

The controversy between the parties did not die down. To frustrate the right of redemption granted to the deceased Clemente Guerrero in Civil Case No. 3022, petitioner Isidora Salud initiated Civil Case No. BCV-86-60, dubbed an Action to Quiet Title/Remove Cloud from Title, Declaratory Relief plus Damages before the RTC of Imus, Cavite. Sued was Clemente's widow, private respondent Melania Guerrero. The latter moved to dismiss the complaint on ground, among others, of *res judicata*.

In an Order^[4] dated March 19, 1987, the trial court granted the motion to dismiss. Petitioner appealed to the respondent Court of Appeals which, however, rendered an affirmance.

Hence, this petition.

The rules of *res judicata* are of common law origin and they initially evolved from court decisions. It is now considered a principle of universal jurisprudence forming a part of the legal system of all civilized nations.^[5] In our jurisdiction, the principle of *res judicata* was incorporated as part of our statutory law. The principle was enacted as sections 306 and 307 of Act No. 190.^[6] Later, it became sections 44 and 45 of former Rule 39.^[7] Under the present Rules of Court, it appears in section 49 of Rule 39, viz:

"Section 49. Effect of judgments. - The effect of a judgment or final order rendered by a court or judge of the Philippines, having jurisdiction to pronounce the judgment or order, may be as follows:

x x x

(b) In other cases the judgment or 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;

(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 which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto."

The above rule expresses the two (2) aspects of *res judicata*. As pointed out by Moran, the first aspect is the effect of a judgment as a bar to the prosecution of a second action upon the same claim, demand or cause of action. The second aspect precludes the relitigation of a particular fact of issue in another action between the same parties on a different claim or cause of action.^[8] The first aspect is known in traditional terminology as merger or bar; in modern terminology, it is called claim preclusion. The second aspect is traditionally known as collateral estoppel; in modern terminology, it is called issue preclusion.^[9]

There is universal agreement on the principles underlying *res judicata*,^[10] viz:

"x x x. Two maxims of the English common law best summarize the general policies underlying this doctrine. They are: first, that no person should be twice vexed by the same claim; and second, that it is in the interest of the state that there be an end to litigation. Thus, principles of *res judicata* serve both private and public

interests.

The interest of the judicial system in preventing relitigation of the same dispute recognizes that judicial resources are finite and the number of cases that can be heard by the court is limited. Every dispute that is reheard means that another will be delayed. In modern times when court dockets are filled to overflowing, this concern is of critical importance. Res judicata thus conserves scarce judicial resources and promotes efficiency in the interest of the public at large.

Once a final judgment has been rendered, the prevailing party also has an interest in the stability of that judgment. Parties come to the courts in order to resolve controversies; a judgment would be of little use in resolving disputes if the parties were free to ignore it and to litigate the same claims again and again. Although judicial determinations are not infallible, judicial error should be corrected through appeals procedures, not through repeated suits on the same claim. Further, to allow relitigation creates the risk of inconsistent results and presents the embarrassing problem of determining which of two conflicting decisions is to be preferred. Since there is no reason to suppose that the second or third determination of a claim necessarily is more accurate than the first, the first should be left undisturbed.

In some cases the public at large also has an interest in seeing that rights and liabilities once established remain fixed. If a court quiets title to land, for example, everyone should be able to rely on the finality of that determination. Otherwise, many business transactions would be clouded by uncertainty. Thus, the most important purpose of res judicata is to provide repose for both the party litigants and the public. As the Supreme Court has observed, res judicata thus encourages reliance on judicial decision, bars vexatious litigation, and frees the courts to resolve other disputes."

In our age, where courts are harassed by crowded dockets and complaints against slow foot justice, frequent technical reliance on the preclusive breadth of res judicata is understandable. The importance of judicial economy and avoidance of repetitive suits are strong norms in a society in need of swift justice. Be that as it may, there should not be a mechanical and uncaring reliance on res judicata where more important societal values deserve protection. So we held in *Suarez vs. Court of Appeals, et al.*,^[11]

"Assuming in gratia argumenti that the prior judgment of dismissal with prejudice was validly rendered within the lawful discretion of the court and could be considered as an adjudication on the merits, nonetheless, the principle of res judicata should be disregarded if its application would involve the sacrifice of justice to technicality (*Republic v. De los Angeles*, No. L-30240, March 25, 1988, 1159 SCRA 264). The application of the said principle, under the particular facts obtaining, would amount to denial of justice and/or bar to a vindication of a legitimate grievance (*Ronquillo v. Marasigan*, No. L-11621, May 31, 1962, 5 SCRA 304). It is worth stating here that the controversy in the instant case is not just an ordinary suit between parties over a trivial matter but a litigation initiated by then natural mother over the welfare and custody of her child, in which the State has a paramount interest. The fundamental policy of the State as embodied in the Constitution in promoting and protecting the welfare of children shall not be disregarded by the courts by mere technicality in resolving disputes which involve the family and the youth."

The case at bench presents an exceptional instance where an inflexible application of the doctrine of res judicata will not serve our constitutional policy favoring fairness, the heart of due process. Petitioner was not a party in Civil Case No. 3022 and was not given any chance to contest the claim of Guerrero. Her children, then in the United States, were the ones sued. They failed to answer, and were declared in default. Thus, the late Clemente Guerrero, husband of private respondent, obtained a favorable judgment by default from the trial court pursuant to which he was given the right of preemption over the contested lots. Petitioner attempted to intervene in the case but unfortunately, her motion for intervention was denied. The late Guerrero, therefore, prevailed primarily because his claim was not disputed. In contrast was the result in Civil Case No. 3023 where Guerrero claimed the same right of preemption against the other children of petitioner. In this case, however, one of the children of

petitioner sued by Guerrero, was in the Philippines and he answered the Complaint. The case was tried on its merit and the trial court dismissed the Complaint of Guerrero. It found that the right of preemption of Guerrero was not yet in esse.

The difference in the results of Civil Cases No. 3022 and 3023 accentuates the necessity not to give res judicata effect to the default judgment in Civil Case No. 3022 where petitioner was a non-party. The demands of due process present a weightier consideration than the need to bring an end to the parties' litigation. For more important than the need to write finis to litigation is to finish it justly, and there can be no justice that satisfies unless the litigants are given the opportunity to be heard. The constitutional right to due process of petitioner cannot be defeated by the argument that petitioner is a privy of her children in Civil Case No. 3022, and hence is bound by its judgment. Case law, both here and in the United States, recognizes privity of interest under the following situations:[12]

"The historic and most common situation in which privity is upheld exists when a person acquires an interest in the subject matter of the suit after it was filed or decided. Successors-in-interest, whether they obtain their interests by virtue of an assignment, by inheritance or by law are bound along with, their predecessors by the rules of res judicata and collateral estoppel. This is necessary in order to preserve the finality of judgments; otherwise a person confronted with an adverse decision might subject the winning party to the prospect of continual litigation simply by transferring his interest in the subject matter of the suit to another who could begin the suit anew.

A second well-defined privity relationship arises when legal appointed representative parties, such as trustees and executors, are involved; those individuals are deemed in privity with those whom they represent. Since parties litigating in representative capacity have no interests of their own, but either sued or are sued on behalf of the beneficiaries whom they serve.

Privity also has been universally recognized when it is determined that the newly named party in the second suit actually controlled or participated in litigating the first action. Although the non-party will not be bound by res judicata because different claims are involved, identical issues that were necessarily and actually litigated will be precluded. Having received one opportunity to defend or prosecute those issues, he may not be allowed another."

Petitioner does not fall in any of the above categories. She is not a successor-in-interest of her children Civil Case No. 3022. Petitioner's children were not sued in Civil Case No. 3022 in a representative capacity. It is also clear that petitioner did not control or participate in Civil Case No. 3022 for her motion to intervene was denied. Petitioner's interest, therefore, was not at all represented in Civil Case No. 3022 where judgment was obtained by default. The doctrine of res judicata is a rule of justice and cannot be rigidly applied where it will result in injustice.[13]

IN VIEW WHEREOF, the Decision dated May 23, 1991 of the respondent court is REVERSED and SET ASIDE. Civil Case No. BCV-86-90 is remanded to its court of origin for further proceedings. No costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, and Mendoza, JJ., concur.
Padilla, J., separate concurring opinion.

[1] Rollo, Court of Appeals Decision, p. 55.

[2] Id., p. 18.

[3] Id., pp. 18-19.

[4] Branch 21; the Honorable Roy S. del Rosario, Presiding Judge.

[5] AM JUR 2nd ed., Vol. 46, p. 568.

[6] Moran, Comments on the Rules of Court, Vol. II, 1979 ed., p. 347.

[7] Ibid.

[8] Op. cit., p. 349.

[9] James and Hazard, Civil Procedure, Little, Brown & Company 2nd ed., p. 532.

[10] Friedenthal, Kane, Miller, Civil Procedure, Hornbook Series, West Publishing Co., 1985 ed., pp. 614-615, Moran, op. cit., pp. 349-351.

[11] G.R. No. 83251, January 23, 1991, 193 SCRA 183, 189; Friedenthal, op. cit., pp. 656-657; Collateral Estoppel of Non-Parties, 87 Harvard Law Review, 1485--1504 [1974].

[12] Friedenthal, op. cit., p. 684.

[13] AM JUR 2nd, Vol. 46, p. 569.

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SEPARATE CONCURRING OPINION

PADILLA, J.:

The first action (Civil Case No. 3022) cannot possibly be res judicata to the second action (Civil Case No. BCV-86-60) initiated by Isidora Salud, for the reason that Isidora Salud was not a party in the first action, either as plaintiff or defendant. She tried to intervene in said first action but her bid was denied. She was, therefore, not heard as to her evidence in said first action.

Neither can it be said that in the second action, Isidora Salud is litigating by virtue of a "title subsequent to the commencement" of the first action, for the reason that, while the defendants in the first action, were her children, she however is litigating the second action in her own right and not as a successor-in-interest or assignee of her children, the defendants in the first action.

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