

**SUNFLOWER UMBRELLA MANUFACTURING CO., INC., PETITIONER,
VS. BETTY U. DE LEON AND THE HONORABLE COURT OF APPEALS,
RESPONDENTS.***G.R. No. 107349. September 26, 1994*

Ponente: MELO, J.

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The adjective norm of bar by former judgment was utilized by respondent Court of Appeals in CA-G.R. SP No. 26401, through Justice Reynato S. Puno, with whom Justices Magsino and Montoya concurred, to stave off the progress of Civil Case No. 0-6576 involving the extinction of an easement which had been previously established over the same realty in Civil Case No. Q-22325 (p. 51, Rollo). Parenthetically, since then, the ponente below has received a well-deserved and fitting promotion to this Court. It is this proscription in procedural law, together with the denial of the subsequent motion for reconsideration therefrom (p. 53, Rollo), which petitioner desires to rectify via the petition at hand.

Premised on the principal supposition that her property had been isolated without the corresponding outlet for ingress and egress, herein private respondent Betty U. de Leon initiated in 1976 Civil Case No. Q-22325 geared towards the creation of a compulsory servitude of right of way against the adjoining lot owners. On October 10, 1980, the court of original jurisdiction felt the necessity therefor and rendered judgment, thusly:

1. Granting the proposed right of way demanded by plaintiff, and ordering her to indemnify defendants Pelares and Calma the amounts of One Hundred Twenty Pesos (P120.00) and One Hundred Pesos (P100.00) per square meter respectively on their affected lots.
2. Ordering the plaintiff to cause the transfer of the small houses located in the area affected by the right of way on defendant Baetiong's lot at the expense of the former.
3. Ordering defendant Domingo to pay plaintiff by way of indemnity for the amount expended in transferring the concrete fence he had constructed in encroachment of defendant Calma's property.
4. No pronouncement as to costs.

(pp 110-111, Rollo)

When the propriety of the easement as pronounced by the trial court was elevated to the Court of Appeals, the reviewing magistrates in CA-G.R. CV No. 01437 (de Pano, Fule [P], Isnani, JJ.) modified on October 24, 1988 the assailed disposition in this manner:

1. Granting the proposed right of way demanded by plaintiff-appellee and ordering her to indemnify defendant Pelares and defendant- appellant Calma the amounts of One Hundred Twenty Pesos (P120.00), and One Hundred Pesos (P100.00) per square meter respectively, on their affected lots;
2. Ordering plaintiff-appellee to cause the transfer of the small houses affected by the right of way on

defendant Baetiong's lot at the expense of the former (plaintiff-appellee);

3. Ordering plaintiff-appellee to indemnify defendant-appellant Leticia Calma the amount of P5,000.00 as consequential damages;

4. Ordering defendant Roberto Domingo to remove and or transfer the concrete fence encroaching upon defendant Calma's property at the expense of the former (defendant Roberto Domingo); and

5. Remanding the case to the court a quo for the purpose of determining and or fixing the exact measurements of the lot to be actually affected by the proposed right of way.

(pp. 118-119, Rollo.)

Following entry of judgment by the Court of Appeals in the above CA-- G.R. CV No. 01437 (p. 120, Rollo), Betty U. de Leon filed a motion for execution on December 15, 1989 (p. 104, Rollo) which was nonetheless denied by Judge Teodoro P. Regino on January 8, 1990 due to these observations:

The defendant is correct. Plaintiff should have asked for a clarification from the Court of Appeals as to what Annex "A" it referred to in its decision and or points out the error that the particulars allegedly left for determination had in fact been fixed on Exhibit "B", which is Annex "A" attached to the "Final Amended Complaint", filed on July 14, 1977. Plaintiff failed to call the attention of the Appellate Court that the judgment appealed from is complete and left no matters to be determined or settled in a subsequent proceeding and is final. If the judgment is incomplete, it is not final and defendants could not have appealed to the Court of Appeals. The judgment of the Court of Appeals, under the circumstance, can no longer be amended or corrected and it becomes the ministerial duty of this Court to set the case for further proceeding or hearing to determine what was ordained by the Court of Appeals. This Court has no authority to ignore the mandated portion of the appellate court's judgment, which is final and executory, the latter itself having no power to revoke the same after it has become final.

(pp. 102-103, Rollo.)

On account of the so-called sale of the land in 1989 by the heirs of Daniel Pilares, a defendant in Civil Case No. Q-22325, to herein petitioner Sunflower Umbrella Manufacturing Co., Inc. (Sunflower) herein private respondent Betty U. de Leon (de Leon) submitted in 1990 a supplemental complaint to implead herein petitioner in Civil Case No. Q-22325 (p. 54, Rollo). And owing to the alleged misrepresentation of de Leon in the supplemental complaint that her property was still isolated, albeit her relatives had acquired the property in 1974 (p. 69, Rollo) to the South of the land owned by de Leon, which development could have obliterated the creation of a burden on the servient estates, Sunflower commenced on September 3, 1990 Civil Case No. Q--90-6576 for the extinguishment of the easement (p. 66, Rollo). When said action was consolidated with Civil Case No. Q-22325, de Leon filed her Answer with motion to dismiss the second case, Civil Case No. Q-90-6576, on account of the previous pronouncement calling for the establishment of the burden (p. 147, Rollo). Nevertheless, the plea in avoidance was merely noted on July 19, 1991 and the trial court deferred resolution thereof pending hearing on the merits (p. 106, Rollo). When pressed to reconsider the Order of July 19, 1991, the trial court remained unpersuaded, declaring in its Order of October 1, 1991:

WHEREFORE, premises considered, the Motion for Reconsideration is denied. Parties are hereby instructed to submit their respective pre-trial briefs together with proffer of documentary exhibits. Let the pre-trial be set for November 22, 1991 at 8:30 a.m.

SO ORDERED.

(p 109, Rollo)

Dismayed by the denial of her motion for execution, the reluctance of the trial judge to dismiss Civil Case No. Q-90-6576, and the persistence of the magistrate to pursue the pre-trial in Civil Case No. Q-90-6576, de Leon ventilated her redress in the Court of Appeals which partly agreed with her in CA-G.R. SP No. 26401:

We find the petition partly meritorious.

We hold that the court a quo in Civil Case No. Q-22325 did not abuse its discretion in denying petitioner's motion to execute. The Decision in said case cannot yet be executed because the court a quo has still to fix "the exact measurements of the lot to be actually affected by the proposed right of way." It is for this reason that the case was remanded to the court a quo as the determination cannot be done by this Court in the exercise of its appellate jurisdiction. Indeed, as stressed by this Court in its Decision dated October 24, 1988 "even Annex 'A' of the Complaint, upon which the proposed right of way is plotted does not specify the measurements to be covered by the proposed right of way." This ruling was not challenged by the parties to the case, including the petitioner. If petitioner felt that her right of way can be fixed by simply placing the "motion" on certain points in the verification survey plan, she could have made the proper motion in this Court and there would have been no need to remand the case to the trial court. Petitioner, however, never took this position on appeal.

We now come to the question of whether the Complaint in Civil Case No. Q-90-6576 should be dismissed on ground of res judicata, it appearing that the right of way of petitioner has already been decreed in Civil Case No. Q-90-6576 and affirmed by this Court in CA-G.R. CV No. 01439 [should henceforth be 01437]. In order that a judgment rendered in a case may be conclusive in a subsequent case, the following requisites must be present:

- a. It must be a final judgment of [r] order;
- b. The court rendering the same must have jurisdiction of the subject matter and of the parties;
- c. There must be between the two cases identity of parties, identity of subject matter and identity of cause of action. (*San Diego v. Cardona*, 70 Phil. 281)

The rule of res judicata mandates that a final judgment on the merits rendered by a court a quo having jurisdiction of the subject matter and of the parties is conclusive in a subsequent case between the same parties and their successors-in-interest by title subsequent to the commencement of the action, litigating for the same thing and under the same title and in the same capacity, regardless of how erroneous it may be. Public policy and sound practice demand that, at the risk of occasional errors, judgment of courts should become final at some definite date fixed by law (Moran, *Comments on the Rules of Court*, Vol. 2. 1989 ed., p. 349).

In the case at bar, the question is whether or not there is identity of cause of action or issue in Civil Case No. Q-22325 and Q-6576 as the other elements of res judicata are obviously present. Again, Moran capsulized the test on identity of cause of action as follows:

"(3) Identity of cause of action or issue.- In order that a judgment rendered in a case may operate as a res judicata in a subsequent case, it is essential that the cause of action in the two cases should be the same. In this connection, distinction should be made between "cause of action" and "relief". Cause of action is the wrong or delict committed by the defendant by which he violated the rights of the plaintiff, whereas relief is the remedy sought for such violation. A cause of action may give rise to different remedies, and though the remedy prayed for in one case is not the same as that sought in a subsequent case, if both remedies arise from the same cause of action, there is res judicata. Thus, if, in the former case, plaintiff sought specific performance of a contract and, in the second rescission thereof, but the cause of action in the two cases is the same, that is, non-performance on the part of the defendant, the judgment rendered in the first case in favor of the defendants is res adjudicata in the second. Again, if, in the first case, the relief sought is accounting of certain funds, and in the second case, partition of the same funds, but the cause of action in the two cases is the same, that is, the plaintiff's right to the fund as denied by the defendant, the judgment rendered in the first case, declaring the

plaintiff to have no such right, is res adjudicata in the second case.

That the remedy sought, or the mere form of action, may be different, does not prevent the estoppel of the former adjudication. If, upon the facts in issue in the former action, the plaintiff was entitled in that action to a remedy such as the law awards as compensation or redress for the alleged wrong, or if upon those facts he was entitled to no remedy, adjudication of his right to recover, in that action bars his right to afterwards seek a different remedy upon the same facts or cause of action. Accordingly, a final judgment in an ordinary civil action determining the ownership of certain lands, is res adjudicata in a registration proceeding where the parties and the property are the same as in the former case."

(Comments on the Rules of Court, op. cit., pp. 357-358)

Applying this test, we hold that there is identity of cause of action. In Civil Case No. Q-22325, the trial court as well as this Court made a finding as to the location of the lot of the petitioner vis-a-vis the lots of the defendants in the case and ruled that petitioner should be granted a right of way by said defendants. If the case was remanded to the trial court, it was only for the purpose of fixing the measurement of the right of way. In this regard, the findings of both the trial court and this Court in CA-G.R. CV No. 01439 are:

xxx

"Plaintiff is the owner of a parcel of land which she bought from Roberto Domingo and Perpetua V. Domingo (Ex. "H") known as lot 4576-B-4 of the subdivision plan for Beatriz Baetiong, which lot is now bearing TCT No. 22153. This aforesaid lot is surrounded on all three sides by lots belonging to defendant Leticia Calma namely lots 4576-A--2 or Psd 4959: 4576-B-5 of Psd 66013; 4576-B-3 of Psd 66013 and the following adjoining lots, lot 3 of Psd-6219 and lot 4576-A-1 of Psd-4959. (Annex "A" of the complaint). In addition to the oral testimony of plaintiff herself, the geodetic engineer Felipe Jamero as representative of a City Assessor's Office and Atty. Bobby Yuseco, documentary evidence were also adduced and offered, to give the pictorial representation of the vicinity illustration the necessity subject matter of this action and showing the relative position of plaintiff's and defendants' properties (Exhs. "A", "A-1" and Annexes "A" & "B" of the Supplement to Motion for Ocular Inspection). Exhibit "B--2" shows the inadequate 1.20 meters pathway along the wall fence of defendant Calma, Exhibit "B-1" is the proposed right of way traversing lots 4575 and 43576-B-1 of defendant Pilares, lot 4576-B-2 of Baetiong and lot 4576-B-3 of Calma, all of them southern portion (Ex. "B"). Under the geodetic plan, Ex. "B", showing the right of way, lot 4575 Caloocan Cadastre belonging to Pilares is affected by the proposed right by 104 sq. meters: Pilares' lot 4576-B-1 by 82 sq. meters, Baetiong's lot 4576-B-2 by 71 sq. meters, Calma's lot 4576-B-3 by 70 sq. meters."

These findings sustained the allegations of petitioners in her Complaint in Civil Case No. Q-22325.

Despite the finality of these findings since the Decision in CA-G.R. CV No. 01439 was not appealed, the private respondent filed Civil Case No. 0-6576 to extinguish the right of way of petitioner on the ground that petitioner made misrepresentation on the boundaries of her lot in Civil Case No. Q-22325. Thus private respondent alleged in its Complaint:

"7. On April 24, 1990, defendant filed a Supplemental Complaint in aforesaid Civil Case No. Q--22325 impleading the plaintiff as a new defendant therein; copy of the mentioned Supplemental Complaint is attached, marked and made integral part hereof as Annex "A";

8. Paragraph 8 of defendant's Supplemental to Complaint orders that her aforesaid Lot 4576-B-4 is bounded on the North. East and West by the lands of Leticia Calma (one of the nine /19/ defendants in aforesaid Civil Case No. Q-22325) and on the South Lot 4576-B-6 belonging to Petra Tolentino (who was not made a defendant therein), thus, herein defendant, as such plaintiff in seeking the establishment in her favor of a road right of way,

has caused it to appear that her property (Lot 4576--B-4) is on all sides surrounded by estate belonging to others; aforesaid paragraph 8 of ANNEX "A" hereunder reproduced for the purpose of emphasis as follows:

'8. That the aforesaid lot of plaintiff, as shown in (the) attached prepared verification plan Annex "A" is bounded on the North by lot 4576-A-2, (LRC) Psd-4959 belonging to defendant Leticia Calma, which was now where TCT No. 209475; on the East by Lot 4576-B-5, Psd-66013 now with TCT No. 21043 likewise owned by defendant Leticia Calma; on the South by Lot 4576-b-6 Psd-66013 belonging to Petra Tolentino and on the West by Lot 4576-B-3 Psd-66013 now with TCT 214042 likewise belonging to defendant Leticia Calma;'

9. Defendant knowingly made thus a gross misrepresentation of a material fact by falsely stating in and by means of verified Supplemental Complaint that her land (Lot 4576-B-4) enclosed on three side by lots belonging to Leticia Calma and the remaining or last side by Petra Tolentino and that she is ordered without any sufficient ingress or egress, when the contrary is verily true in that, the very property situated South of her land and which she proclaims to be owned by Petra Tolentino Lot 4576-B-6 is in truth and in fact actually owned by a member of her own family, one Melinda U. de Leon, most probably a sister or daughter of defendant and whose given residence address in No. 614 Narra St., Tondo, Manila, the same residence address of the herein defendant as given and indicated in concrete in her own Tax Declaration No. B-008-00802 covering her subject lot 4576-B-4 Psd-66013; a copy of the covering Certification of Assessment issued August 17, 1990 by Asst. City Assessor Dante M. Villoria of Quezon City is hereto attached, marked and made an integral part hereof as ANNEX "B";

10. As herein above just stated adjacent unto and situated to the South of defendant's said Lot No. 4576-B-4 Psd-66013 is the aforesaid Lot No. 4576-B-6 Psd-66013, which is owned, as previously stated also in the name of the same Melinda U. de Leon under Tax Declaration No. 003-00804; copy of the covering Certification of Assessment issued August 17, 1990 by Asst. City Assessor Dante M. Villoria of Quezon City is attached, marked and made Integral part hereof as ANNEX "C";

11. Adjoining further to the South of Lot No. 4576-B-6 which is declared for tax purposes in the name of said Melinda U. de Leon, is Lot 32-0-3-A Psd-103321 which abuts Madelaine Street, and this latter property, again contrary to the loud pretensions of defendant as being by it also surrounded since belonging to a third person, is in fact owned by members of defendant's family, namely, Myrna U. de Leon, Magdalena U. de Leon and Venancio U. de Leon, most probably the sisters brothers children of same herein defendant, judging from their given common address in the Deed of Absolute Sale dated July 30, 1974 in their favor as Narra Street, Tondo, Manila. Aforesaid Lot No. 32-0-3-A Psd-103321 is presently declared for tax purposes in the names of the same Myrna U. de Leon, Magdalena U. de Leon and Venancio U. de Leon: a copy of the covering Certification of Assessment issued August 17, 1990 by Asst. City Assessor Dante M. Villoria of Quezon City is attached, marked and made integral part hereof as ANNEX "D";

12. As it now physically appears on the ground, aforementioned Lots Nos. 4576-B-4, 4576-B-6 and 32-0-3--A at present altogether constitute one single mass and contiguous lot enclosed by a concrete fence, abutting Madelaine Street to the East of Lot 32-0-3-A Psd 103321, and which defendant uses for ingress and egress. The beneficial owner of three adjacent properties is, of course, herein defendant, presently engaged in the business or furniture manufacturing with a factory building located precisely inside the same three (3) mentioned lots;

13. Unto all legal intents and purposes, the proposed right of way demanded by herein defendant through Civil Case No. Q-22325 of this Honorable Court and pending further proceedings therein, has now ceased to be necessary, and pursuant to Article 655 of the New Civil Code, the same deserves to be extinguished:"

This attempt is barred by the rule of res judicata. Again, this is well pointed out by Moran, viz:

x x x

"Binding effect of res judicata. - If all the elements of res judicata mentioned above are present then the judgment rendered is conclusive between the parties and their successors in interest "with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto" according to subdivision (b) of the above provision. In other words, the judgment is binding not only as to matters actually litigated and determined therein but as to other matters necessarily involved. Under the doctrine of res judicata an adjudication is final and conclusive not only as to matter actually determined, but as to every other matter which the parties might have litigated and have had decided as incident to or essentially connected with the subject matter of the litigation, and every matter coming within the legitimate purview of the original action, both in respect to matter of claim and of defense." (Comments on the Rules of Court op. cit., p. 359)

The so-called "misrepresentations" by the petitioner with respect to the lots adjoining her lot cannot be retried anew and corrected in Civil Case No. Q-6576, otherwise, there will be no end to litigation. Nor are we impressed by the reasoning that Civil Case No. Q-6576 is for extinguishment of the easement of right of way granted to the petitioner in Civil Case No. Q-22325. Such a posture would have been more attractive if the cause for the alleged extinction of petitioner's right of way arose after the finality of the Decision in Q-22325. The fact of the matter however is that the alleged cause was already in existence during the pendency of Case No. Q-22325. If the cause was not well ventilated by the predecessor-in-interest of the private respondent he is bound by such an error as a successor-in-interest. Private respondent, however, cannot attempt to correct such an error by starting another round of litigation.

IN VIEW WHEREOF, the Order dated January 8, 1990 in Civil Case No. Q-22325 is sustained but the Orders dated July 19, 1991 and October 1, 1991 in Civil Case No. Q-6576 are reversed and set aside and the Complaint of the private respondent in Civil Case No. Q-6576 is ordered to be dismissed on ground of res judicata. No costs.

(pp. 44-51, Rollo.)

The primordial query aired in the petition at bench is whether the disposition in Civil Case No. Q-22325 for the establishment of an easement, as modified in part by the Court of Appeals in CA-G.R. CV No. 01437 and which became final and executory, has the force of adjudication as to absolutely arrest and foreclose the institution of any subsequent action such as the complaint by herein petitioner Civil Case No. Q-90-6576, for the termination of the servitude.

Of course, a question of this character posed by herein petitioner will perforce bring to mind the elements constitutive of bar by prior judgment as an old axiom in law:

- (a) The former judgment or order must be final;
- (b) It must be a judgment or order on the merits, that is, it was rendered after a consideration of the evidence or stipulations submitted by the parties at the trial of the case;
- (c) It must have been rendered by a court having jurisdiction over the subject matter and the parties; and
- (d) There must be, between the first and second actions, identity of parties, of subject matter, and of cause of action.

(I Regalado, Remedial Law Compendium, 1988 Fifth Rev. ed., p. 308)

Petitioner postulates the view that the disposition of the trial court in Civil Case No. Q-22325 as modified by the Court of Appeals in CA-G.R. CV No. 01437 has yet to attain the character of finality considering that the case was remanded to the trial court for the purpose of fixing the exact measurements of the lot to be affected by the proposed right of way. But what must have escaped the attention of petitioner's counsel was the first paragraph of

the decretal portion in CA-G.R. CV No. 01437, thus:

1. Granting the proposed right of way demanded by plaintiff-appellee and ordering her to indemnify defendant Pelares and defendant-appellant Calma the amounts of One Hundred Twenty Pesos (P120.00), and One Hundred Pesos (P100.00) per square meter, respectively, on their affected lots: (p. 118, Rollo.)

which categorically speaks of the establishment of a right of way. As earlier intimated herein, the judgment of the Court of Appeals in CA-G.R. CV No. 01437 became final and executory on November 27, 1988 as shown by the corresponding entry of judgment (p. 120, Rollo). And the mere happenstance that the Court of Appeals in CA-G.R. SP 26401 agreed with the course of action pursued by the trial court in denying de Leon's motion for execution does not in the least indicate that the judgment in Civil Case No. Q-22325 had not reached the final and executory stage. Indeed, a judgment becomes final upon the expiration of the period for appeal therefrom, if no appeal is duly perfected. And a final judgment or order of a court against a specific thing rendered after due consideration of the evidence proffered by the parties during the trial of the case, and having jurisdiction to pronounce it, is conclusive upon the title of the thing (Section 49(a), Rule 39, Rules of Court). From the pleadings of the parties below, the question of competencia of the trial court over the subject matter and over the parties, as a second factor of *res judicata*, was never disputed.

With respect to the aspect of identity of parties, it has been repeatedly stressed that this requirement is satisfied if the two actions are substantially between the same parties which means that the parties in both cases need not be physically identical provided that there is privity between the parties or their successors in interest by title subsequent to the commencement of the previous cause of action, litigating for the same thing, title, or capacity (Santos vs. Gabriel, 45 SCRA 288; 295 [1972]; 2 Martin, Rules of Court, 1973 ed., p. 4233) as when the party in the subsequent case is a purchaser of the property, (Baguiguito vs. Rivera, 56 Phil. 423 [1931]), like herein petitioner, which acquired a portion of the controverted realty in January 1989 (p. 61, Rollo) after the filing of Civil Case No. Q-22325 in 1976 and after the decision in CA-G.R. CV No. 01437 was promulgated (p. 110, Rollo). Moreover, it appears that the realty purchased by petitioner had a notice of *lis pendens* relative to the creation of an easement annotated at the back of the corresponding certificates of title (pp. 61-62, Rollo). These inscriptions operate as constructive notice to purchasers dealing with the same property (Jamora vs. Duran, 69 Phil. 3[1939]) and it goes without saying that the property purchased would have to be subject to the outcome of the litigation (Pena, Registration of Land Titles and Deeds, 1988 rev. ed., p. 388). As vendee, petitioner is bound by the judgment in Civil Case No. Q-22325 and CA-G.R. CV No. 01437 (1 R.C.L. 889; Pena, *supra*, at p. 390).

Considering that petitioner Sunflower, as transferee of the property, is necessarily affected by the outcome of the first case for the creation of the easement it follows that it can not extricate itself from the principle of *res judicata* by the expedient, nay, subtle experiment of initiating another redress for the termination of the same easement, more so when the basis for the filing of the second case for termination of the easement arose in 1974 or prior to the institution of the first case for establishment of the servitude in 1976. Indeed, a change in the form of the action or in the relief sought does not remove a proper case from the proscription against double vexation (Vda. de Vocalv s. Vda. de Sunia, 90 SCRA 336 [1979]; 2 Herrera, Remedial Law, 1990 ed., p. 199) apart from the fact that the judgment sought by petitioner in the second case (Civil Case No. QC-90-6576) will be inconsistent with the previous judgment in Civil Case No. Q-22325 and CA-G.R. CV No. 01437 (34 C.J. 805; 2 Martin, *supra*, at p. 432). This, of course, does not foreclose petitioner, should there be subsequent changes in the condition of the estates involved, from initiating an action to terminate the easement. But, insofar as the instant case is involved, this may not be accomplished, for as aforestated, the basis for the filing of the second case arose in 1974 or even before the first case for the easement was filed in 1976.

WHEREFORE, the petition is hereby DISMISSED and the decision of the Court of Appeals in CA-G.R. SP No.

26401 dated May 29, 1992 AFFIRMED.

SO ORDERED.

Feliciano, (Chairman), Romero, and Vitug, JJ., concur.

Bidin, J., on leave.

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