

ALLIED BANKING CORPORATION, PETITIONER, VS. HON. COURT OF APPEALS AND FILOTEO ALANO, RESPONDENTS.

G.R. No. 108089. January 10, 1994

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

This is a petition for review on certiorari to set aside the decision of the Court of Appeals in CA-G.R. CV No. 33307. The said decision affirmed in toto the order of the trial court dismissing the petitioner's complaint on the ground of *res judicata*.

The factual and procedural antecedents are in the main undisputed.

The private respondent is one of several parties named as co-defendants of Dearfield, Incorporated (Dearfield) in a complaint[1] filed by the petitioner with the Regional Trial Court (RTC) of Makati on 25 May 1987, which was docketed as Civil Case No. 16837 (hereinafter the First Case) and raffled off to Branch 149 of the said court. The complaint is based on promissory notes, letters of credit, and trust receipts executed by the principal obligor, Dearfield. On 16 November 1987, the private respondent filed a motion to dismiss the complaint on the ground that it fails to state a cause of action as against him.[2] He specifically averred that a reading of the first to the seventh causes of action will reveal that he is never mentioned therein as having a contractual relation with the plaintiff; that the allegations therein "don't even cite or mention any participation of defendant ALANO in these transactions"; that on the basis of the allegations of the complaint, the court cannot render a valid judgment against him; and that the complaint served on him did not contain Annexes "S," "T," and "U," the alleged copies of the "Continuing Guaranty/Comprehensive Surety" documents, thereby violating Section 7, Rule 8 of the Rules of Court and rendering the complaint against him defective. The petitioner opposed the motion to dismiss.[3]

In the Order of 20 June 1988, the trial court granted the motion after finding that "on the basis of the allegations of the complaint, there is really no cause of action against defendant Alano." [4] Its motion for reconsideration having been denied for lack of merit in the Order of 15 September 1988,[5] the petitioner filed a notice of appeal on 30 September 1988.[6] Subsequently, on 14 December 1988, it filed an appeal by certiorari[7] with this Court, which was docketed as G.R. No. 86009. It prayed therein that the orders of the trial court be reversed. In the Resolution of this Court of 17 April 1989,[8] the petition was dismissed for having been filed late and for lack of merit.

On 31 October 1990, the petitioner filed with the RTC of Manila a new complaint[9] against the private respondent and Feliciano Camara, a surety who was also a defendant in the first complaint. The case (hereinafter the Second Case) was docketed as Civil Case No. 90-54998 and raffled off to Branch 46 of the said court. The complaint practically restates the causes of action in and involves the promissory notes, letters of credit, and trust receipts covered in the First Case. The private respondent filed a motion to dismiss the Second Case on the grounds that (a) the issue raised therein against him had already been settled with finality in the First Case, i.e., the case is barred by *res judicata*, and (b) the complaint fails to state a cause of action against him.[10]

In its Order of 1 March 1991, the trial court sustained the motion and ordered the dismissal of the case as against the private respondent.[11] The petitioner appealed the order to the Court of Appeals which docketed the case as CA-G.R. CV No. 33307. The Court of Appeals found no reversible error in the challenged order and affirmed it in toto in its Decision of 25 November 1992.[12]

The petitioner thus filed the instant petition for review on certiorari on 21 January 1993. We gave it due course in our Resolution of 23 August 1993 after the filing of the Comment on the petition and the Reply to the Comment.

The petitioner contends that the public respondent erred in holding that the judgment in the First Case bars the filing of the Second Case. It submits that the judgment dismissing the First Case for failure to state a cause of action is not a judgment on the merits and that there is no identity of causes of action between the First Case and the Second Case. It argues that the main reason why the First Case was dismissed on the ground of failure to state a cause of action was because the copies of the "Continuing Guaranty/Comprehensive Surety" agreements were not attached to the First Case. The second complaint, on the other hand, is an entirely different complaint for attached to it are the pertinent documents absent in the first complaint. It further avers that by filing a motion to dismiss, the private respondent hypothetically admitted the allegations thereof and that with these admissions, it is clear that there exists a cause of action against the private respondent. Since there is no identity of causes of action between the two complaints, *res judicata* cannot apply.

In his Comment, the private respondent argues that all the elements of *res judicata* are present in this case and that *res judicata* operates to bar not only the relitigation in a subsequent action of the issues squarely raised, passed upon, and adjudicated in the first suit, but also the ventilation in a subsequent suit of any other issue which could have been raised in the first but was not.[13]

In its Reply to the Comment, the petitioner insists that there is a significant difference between the First Case and the Second Case in that the former fails to state a cause of action while the latter does so.

The primary issue in this case is whether the Court of Appeals committed a reversible error in affirming the ruling of the trial court dismissing the Second Case on the ground of *res judicata*.

A careful deliberation on the arguments of the parties discloses no such error. The instant petition must therefore be denied for want of merit.

Well-entrenched is the rule that even at the risk of occasional errors, judgments of courts should become final at some definite time fixed by law and that parties should not be permitted to litigate the same issues over again. This is the *raison d'être* upon which the doctrine of *res judicata* rests.[14] *Res judicata* means "a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment." [15] This doctrine is an old axiom of law, dictated by wisdom and sanctified by age, and founded on the broad principle that it is to the interest of the public that there should be an end to litigation by the same parties over a subject once fully and fairly adjudicated. It has been appropriately said that it is a rule pervading every well-regulated system of jurisprudence, and is put upon two grounds embodied in various maxims of the common law: the one, public policy and necessity, which makes it to the interest of the state that there should be an end to litigation -- *republicae ut sit finis litium*; the other, the hardship on the individual that he should be vexed twice for the same cause -- *nemo debet bis vexari et eadem causa*. A contrary doctrine would subject the public peace and quiet to the will and neglect of individuals and prefer the gratification of the litigious disposition on the part of suitors to the preservation of the public tranquility and happiness.[16]

The essential requisites of *res judicata* are: (1) the former judgment must be final; (2) it must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) it must be a judgment or order on the

merits; and (4) there must be between the first and second action identity of parties, identity of subject matter, and identity of causes of action.[17]

The parties do not dispute the fact that Branch 149 of the RTC of Makati had jurisdiction over the First Case. Its Order of 20 June 1988 dismissing the said case on the ground that "there is really no cause of action against defendant Alano" had long become final and executory and no less than this Court had affirmed its finality when it dismissed on 17 April 1989, on the grounds of late filing and lack of merit, the petitioner's action (G.R. No. 86009) to set aside the trial court's order. It is likewise undisputed that there is an identity of parties (insofar as the petitioner and the private respondent are concerned) and an identity of subject matter between the First and Second Case. The petitioner however submits that there is no identity of causes of action between the two cases since there was no cause of action against the private respondent in the First Case as held by the trial court, while there is now a cause of action in the Second Case. He also argues that there was no judgment on the merits in the First Case.

The argument that there is no identity of causes of action is meretricious. It betrays the petitioner's misunderstanding of what a cause of action is as a component of *res judicata*. That identity relates to the causes of action in the prior and latter cases. No elaboration is needed to show that the causes of action in both the First Case and the Second Case are the same -- enforcement of the rights of the petitioner under the promissory notes, letters of credit, and trust receipts. Although the trial court declared that "on the basis of the allegations of the complaint, there is really no cause of action against defendant Alano," it does not follow that the complaint states no cause of action at all. It must be stressed in this connection that, contrary to the petitioner's contention, the trial court did not primarily base its conclusion of lack of cause of action on the failure of the petitioner to attach to the complaint copies of the alleged "Continuing Guaranty/Comprehensive Surety" agreements. Its main bases are the allegations in the complaint. Our own perusal of the complaint clearly sustains the conclusion of the trial court. Indeed, the complaint neither mentions the name of the private respondent in any of the causes of action nor suggests what his liability is. In short, the petitioner itself had shown beyond cavil, through its allegations in the complaint, that with respect to the promissory note, letters of credit, and trust receipts subject of the complaint, the private respondent had incurred no liability whatsoever.

Nor is there any doubt that the dismissal of the First Case was a dismissal on the merits. That the dismissal of the First Case was not by virtue of a decision but of an order pursuant to a motion to dismiss does not make the dismissal any less an adjudication on the merits. In *Escarte vs. Office of the President*,[18] we held:

"While We agree with Medina that in Civil Case No. 83215, there was no trial on the merits because the case was decided on a motion to dismiss, there was no formal presentation or reception of evidence and an order, not a decision, was issued by the trial court, still, the ruling was a judgment on the merits. As a technical legal term, 'merits' has been defined in law dictionaries as a matter of substance in law, as distinguished from matter of form, and as the real or substantial grounds of action or defense, in contradistinction to some technical or collateral matter raised in the course of the suit. A judgment is upon the merits when it amounts to a declaration of the law to the respective rights and duties of the parties, based upon the ultimate fact or state of facts disclosed by the pleadings and evidence, and upon which the right of recovery depends, irrespective of formal, technical or dilatory objectives or contentions."

In dismissing the First Case for lack of cause of action, the RTC of Makati ruled:

"Considering defendant Alano's Motion to Dismiss complaint and plaintiff's Opposition thereto, as well as the Reply to Opposition filed by defendant Alano, this Court finds that on the basis of the allegations of the complaint, there is really no cause of action against defendant Alano, and the complaint must be dismissed for lack of cause of action against him.

"In view of the foregoing, the Motion to Dismiss filed by defendant Alano is hereby granted. Let complaint against defendant-movant Filoteo Alano be dismissed." [19]

It unequivocally determined the rights and obligations of the petitioner and the private respondent with respect to the causes of action and the subject matter of the case. The order definitely put an end to the controversy between them.

All the essential requisites of *res judicata* are thus present and the dismissal of the Second Case on that ground was not tainted by any error or abuse of discretion. The petitioner cannot evade its application by varying the form of his action or adopting a different method of presenting his case, [20] or by simply adding or dropping parties in the subsequent case. [21] That in the Second Case the petitioner had attached the "Continuing Guaranty/Comprehensive Surety" agreements allegedly signed by the private respondent does not help the cause of the petitioner. Those documents were already touched upon in the pleadings relative to the motion to dismiss the First Case. Moreover, if we follow the arguments of the petitioner, said documents are inextricably linked to the promissory notes, letters of credit, and trust receipts which are, in fact, the subject of the two cases. It is settled that as between the same parties, on the same subject matter and causes of action, a final valid judgment is conclusive not only on the issues actually determined by the decision, but on all issues that could have been raised or litigated in the anterior suit. [22]

WHEREFORE, the petition is hereby DENIED for lack of merit.

SO ORDERED.

Cruz, (Chairman), Bellosillo, and Quiason, JJ., concur.

[1] Annex "B" of Petition; Rollo, 23-33.

[2] Annex "C" of Petition; Rollo, 37-40.

[3] Annex "D" of Petition; Id., 43-45.

[4] Annex "E" of Petition; Id., 52-54.

[5] Annex "F" of Petition; Id., 55.

[6] Id., 59.

[7] Annex "G" of Petition; Id., 56-62.

[8] Annex "I" of Petition; Rollo, 75.

[9] Annex "J" of Petition; Id., 76-90.

[10] Annex "K" of Petition; Id., 95-101.

[11] Annex "P" of Petition; Id., 118-124.

[12] Annex "A" of Petition; Id., 19-22. Per Associate Justice Ricardo J. Francisco, concurred in by Associate Justices Alicia V. Sempio-Diy and Ricardo P. Galvez.

[13] Citing *Vda. de Buncio vs. Estate of Anita de Leon*, 156 SCRA 352 [1987].

[14] *Peñalosa vs. Tuason*, 22 Phil. 303 [1912]; *Zambales Academy, Inc. vs. Villanueva*, 28 SCRA 1 [1969]; *Legarda vs. Savellano*, 158 SCRA 194 [1988].

[15] Gutierrez vs. Court of Appeals, 193 SCRA 437 [1991].

[16] De Ramos vs. Court of Appeals, 213 SCRA 207 [1992], citing Filipinas Investment and Finance Corp. vs. Intermediate Appellate Court, 179 SCRA 728 [1989]; Escarte vs. Office of the President, 192 SCRA 1 [1990]; Yusingco vs. Ong Hing Lian, 42 SCRA 589 [1971].

[17] Baguioro vs. Basa, 214 SCRA 437 [1992], and the cases cited therein at footnote no. 9. See also Gutierrez vs. Court of Appeals, supra.; Nabus vs. Court of Appeals, 193 SCRA 732 [1991]; White Plains Association, Inc. vs. Legaspi, 193 SCRA 765 [1991]; Vda. de Kilayko vs. Tengco, 207 SCRA 600 [1992]; Dela Rosa vs. Mercado, 211 SCRA 236 [1992]; De Ramos vs. Court of Appeals, supra.

[18] 192 SCRA 1, 8 [1990], citing FRANCISCO, V.J., Revised Rules of Court, vol. II, 841-842.

[19] Annex "E" of Petition; Rollo, 53-54 (emphasis added).

[20] Amberti vs. Court of Appeals, 195 SCRA 659 [1991].

[21] Gutierrez vs. Court of Appeals, supra.

[22] Philippine Engineering Corp. vs. Ceniza, 6 SCRA 194 [1962].

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