

**EVANGELINE WENZEL, ETC., ET AL., PLAINTIFFS AND APPELLANTS,
VS. SURIGAO CONSOLIDATED MINING COMPANY, INC., ET AL.,
DEFENDANTS AND APPELLEES.***G.R. No. 10843. May 31, 1960*

Ponente: GUTIERREZ DAVID, J.

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Appeal from an order of the Court of First Instance of Surigao, dismissing plaintiffs' complaint on defendants' motion to dismiss. The appeal was taken to the Court of Appeals, but that court has certified the case to this Court on the ground that the questions involved are purely legal.

Plaintiffs' complaint, which was filed on March 27, 1953 against the defendants-appellees, is for the annulment of a confirmatory contract of sale, Annex A, and for the recovery of ownership and possession of two mining claims, with prayer for damages and attorney's fees. The said complaint, under the first cause of action, in substance alleges that Chester A. Wenzel, father of plaintiffs Evangeline, Josephine, Elizabeth and John, all surnamed Wenzel, during his lifetime and more particularly in 1918, located and staked two mining claims in Tubod, Mainit, province of Surigao, known as "Boston Placer" and "Mestiza Filipina Dacu Girl and Juanita", which were duly registered in the Office of the Mining Recorder of the province; that said Chester A. Wenzel worked the mining claims and paid the annual assessment fees thereon up to the time of his death on September 20, 1930; that thereafter, his widow, Balbina Baguio, now also deceased, continued working the claims and paid the assessment fees up to 1934; that on September 4, 1934 (should be Sept. 28, 1935), defendant Ricardo D. Garcia, acting at the instance of Christian C. Harris, maliciously and fraudulently caused Balbina Baguio to execute a "Deed of Acknowledgment of Performance of Contract to be Certification of Informal Earlier Conveyance by the Vendor", Annex A, purporting to confirm the sale of the "Boston Placer" in favor of the Surigao Mainit Mining Syndicate, predecessor-in-interest of the defendant Surigao Consolidated Mining Co., Inc.; that the said sale is null and void ab initio as said mineral claims was the exclusive property of the deceased Chester A. Wenzel and that Balbina Baguio had no authority to execute said deed; that plaintiffs succeeded as forced heirs to the said "Boston" lode mineral claim from the moment of the death of their father Chester A. Wenzel; that although at the date of the execution of the document Annex A there was a guardianship proceeding of plaintiffs, who were minors (Sp. Proc. No. 1261 of the Court of First Instance of Surigao), Balbina Baguio, as their guardian, did not include said "Boston" lode mineral claim in the inventory and its sale was without the approval of the court in said proceedings; that early in 1935, Christian Harris, in behalf of the Surigao Mainit Mining Syndicate, caused to be staked and located in the same places where the "Boston Placer Claim" and "Mestiza Filipina Dacu Girl and Juanita" were situated, 4 lode mining claims, namely, the "Yes Sir", "Siana", "Lorry" and "Bellang", the declarations of location of which were filed and registered in the Office of the Mining Recorder of the province of Surigao; that the said "Yes Sir" and "Siana" lode claims, which overlap the "Boston Placer Claim" and "Mestiza Filipina Dacu Girl and Juanita", have been worked, mined and operated by the defendant mining company from 1935 up to the present in bad faith, and for that reason said company should give an accounting of its operations

to plaintiffs. Under the second cause of action, the complaint alleges that in Civil Case No. 113 of the same Court of First Instance of Surigao entitled "Evangeline Wenzel Preston, etc., et al., plaintiffs, vs. Surigao Mining Consolidated Co., Inc., defendant," which was decided in favor of the defendant company and confirmed by the Supreme Court (G. R. No. L-3832), the defendants Ricardo D. Garcia and Otto F. Weber presented as evidence two letters dated July 6, 1935 and July 13, 1935, marked as Exhibits "14" and "15", respectively, on the strength of which, the court a quo gave full faith and credit to their testimonies; that said letters were falsified and altered; and that as a consequence of their false testimony, plaintiffs suffered exemplary and moral damages. The complaint, therefore, prays, under the first cause of action, that the document Annex A be declared null and void; that plaintiffs be declared the owners of the "Yes Sir" and "Siana" lode claims; that defendant Surigao Consolidated Mining Co., Inc., be required to execute the deed of transfer and assignment in favor of plaintiffs for the two aforesaid mining claims; and that the Director of Mines be required to recognize plaintiffs' ownership over the two lode claims and to issue the corresponding patents therefor in favor of plaintiffs. Under the second cause of action, the complaint prays that defendants be condemned to pay plaintiffs, jointly and severally, the sum of P100,000 for exemplary damages, P50,000 for moral damages, and P10,000 for attorney's fees and expenses of litigation.

Instead of answering, the defendant Director of Mines filed a motion to dismiss the complaint on the ground that it does not state a cause of action against him upon which relief could be granted. The defendants Surigao Consolidated Mining Co., Inc., Otto F. Weber and Ricardo D. Garcia, thru counsel, likewise, filed a motion to dismiss on the ground that plaintiffs' action is barred by the final judgment rendered in Civil Case No. 113 as affirmed by the Supreme Court; that the complaint states no cause of action; and that the action is barred by the statute of limitations.

There being no opposition to the motions to dismiss, and finding the reasons therein alleged to be well taken, the lower court on December 7, 1953, issued an order dismissing the complaint. Reconsideration of this order having been denied, the plaintiffs took the present appeal.

The appeal is without merit.

Briefly stated, plaintiffs' complaint is for the recovery of two mining claims, the "Boston Placer. Claim" and the "Mestiza Filipina Dacu Girl and Juanita", and of damages occasioned by the perjury alleged to have been committed by defendants Ricardo Garcia and Otto F. Weber, two of the witnesses of the defendant mining company in Civil Case No.-113 of the court below. These matters, however,—as pointed out by defendants-appellees—have already been adjudicated in said Civil Case No. 113. In that case, herein plaintiffs sought to enforce against the Surigao Consolidated Mining Co., Inc., their alleged rights to a parcel of land situated in Barrio Tubod, Mainit, province of Surigao, and to the mining claims Yes Sir, Siana, Bellang and Lorry located thereon by the latter. Said plaintiffs originally prayed for the annulment of the sale of one-half interest of the land executed by Balbina Vda. de Wenzel, plaintiffs' predecessor-in-interest, in favor of the Surigao Mainit Mining Syndicate, for an accounting of the profits and benefits derived by the defendant company from the use, operation and possession of said one-half interest from 1949 up to the filing of the complaint, and for the partition of the property. The complaint was later amended to enable the plaintiffs to change their original theory, which change consists in that instead of merely asking for a partial rescission of the sale, they pray that it be totally nullified for the reason that Balbina Baguio had been the victim of cajolery and fraud on the part of some directors of defendant company. The trial court, however, after a protracted trial at which both parties presented voluminous evidence, both testimonial and documentary, found plaintiffs' claim to be without justification in fact and in law and dismissed the case with costs against them. On appeal to this Court, the decision was affirmed, the Court stating that Balbina Baguio executed the deed of sale conveying the property to the defendant company for

valuable consideration fully conscious of its real import. At the time, said this Court, she was the appointed guardian of the persons and property of her minor children, herein plaintiffs, and she made the transfer not only in her own right but in behalf of her children. The deed of sale was also submitted to the court in the guardianship proceedings, for approval and the court granted its approval after making some suggestions which would best protect the interests of the minors. "All this"—continued this Court—"appears in the testimony of Ricardo Garcia, who is at present the incumbent provincial fiscal of Surigao. This also appears in exhibit '14', '14-A', '15', '15-A' and '15-B' which have reference to the correspondence that was exchanged between fiscal Garcia and attorneys Johnston and Armstrong who were apparently representing Otto F. Weber in the transaction. The court found no reason to doubt the credibility of fiscal Garcia. The court also gave full faith and credit to said exhibits for, as the court remarked, 'These letters were written long before this case was filed or even contemplated, and their writers could not have foreseen that the same would one day be used as evidence in this case.' "

Located on the land in dispute in said Civil Case No. 113 is the "Boston Placer Claim", which this Court, likewise, found to have been sold by Balbina Baguio on September 24, 1934 to the Surigao Mainit Mining Syndicate, and which sale she later acknowledged on September 28, 1935. (Exhibit 7 in Civil Case No. 113; Annex A of the complaint in the instant case.)

It thus clearly appears that the matters or issues raised by plaintiffs in this case have already been judicially tried and determined by a court of competent jurisdiction, and its decision, as affirmed by this Court, has long become final. Under the principle of *res judicata*, that judgment constitutes a bar to the present action for the recovery of the mining claims here in question which after all, are within the same land litigated therein. As a matter of fact, plaintiffs' complaint in this case alleges that their mining claims "overlap the Yes Sir and Siana mining claims of the defendant company," and these mining claims, as already seen, are located in the parcel of land conveyed for valuable consideration to the defendant company's predecessor in interest. The fundamental principle upon which the doctrine of *res judicata* rests is that a matter once adjudicated shall not again be drawn in issue while the former adjudication remains in force; that, when a right or fact has been judicially tried and determined by a court of competent jurisdiction, or an opportunity for such trial has been given, the judgment of the court, so long as it remains unreversed, should be conclusive upon the parties and those in privity with them. (Moran's Comments on the Rules of Court, Vol. I, 1957 ed., pp. 608-609.)

Neither may plaintiffs sustain their action against the defendants for damages allegedly occasioned by the falsification and alteration of the letters of two of its witnesses presented as evidence in the case. These charges are conclusively negated by the adjudication in Civil Case No. 113, where the testimony of said witnesses were given full faith and credit. (Freeman on Judgments, Vol. 2, 5th ed., par. 782; *Mandac vs. Gumarad et al.*, 87 Phil., 278; 47 Off. Gaz. Supp. (12) 449, cited in Moran's Rules of Court, 1957 ed., Vol. 1, p. 609.)

There are, to be sure, more defendants joined in the present case than in the former; but a perusal of the allegations of the complaint will readily show that only the Surigao Consolidated Mining Co., Inc., is concerned under the first cause of action. Under the second cause of action, the proper party defendants are Ricardo D. Garcia and Otto F. Weber, there being nothing alleged in the complaint with respect to the other defendants. Eliminating the latter two named defendants, the charges made against them as witnesses being, as already said, conclusively negated by the former adjudication, it will be seen that the parties in this case are actually the same as the parties in the former case. At any rate, it has been held that there is still identity of parties although in the second action there is one party who was not joined in the former action, if it appears that such party is not a necessary party either in the first or in the second action. (Moran's Rules of Court, Vol. 1, 1957 ed., p. 782.)

The point is made by plaintiffs that the relief sought in Civil Case No. 113 is different from the relief prayed for in the present. The only difference, however, if it can be considered a difference at all, is that in the former, the relief

includes the recovery of the parcel of land on which the mining claims are situated. Well settled is the rule that a party cannot, by varying the form of action, or adopting a different method of presenting his case, escape the operation of the principle that one and the same cause of action shall not be twice litigated between the same parties or their privies. (Francisco vs. Blas et al., 93 Phil., 1.)

In any event, the document Annex A sought to be annulled was executed way back on September 28, 1935, And according to the allegations of the complaint itself, the defendant Surigao Consolidated Mining Co., Inc., had from that year up to the present worked, mined and operated the Yes Sir and Siana Lode claims, which overlap the two mining claims that used to belong to their deceased father. Plaintiffs' action, therefore, to recover these mining claims and to annul said deed of sale has already prescribed, said action having been filed in 1953, or after the lapse of more than 18 years from the time their cause of action accrued. The argument that the period of prescription was tolled during the minority of the plaintiffs is untenable. The same complaint alleges that at the time of the execution of the document Annex A on September 28, 1935, "there was a guardianship proceeding of the plaintiffs who were minors", the guardian being their mother Balbina Baguio. What is more, the sale was approved by the court in the guardianship proceedings. Such being the case, it cannot be validly claimed that prescription did not run against them. (See Art. 1932 of the old Civil Code; Art. 1108 of the new.)

In view of the foregoing, the order of dismissal appealed from is affirmed, with costs against plaintiffs-appellants.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, and Barrera, JJ., concur.

Reyes, J.B.L., and Endencia, JJ., did not take part.

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