

**SPS. VICTORIA V. SERRANO AND ARTURO SERRANO, PETITIONERS,
VS. COURT OF APPEALS, JUDGE EDGARDO P. CRUZ, REGIONAL
TRIAL COURT, BRANCH 27, MANILA, AND AQUINO IKE D. CANOPIO,
RESPON...**

G.R. No. 122930. February 06, 2002

Ponente: PARDO, J.

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PARDO, J.:

The Case

The Case is an appeal via certiorari from the decision of the Court of Appeals[1] dismissing the special civil action of certiorari assailing the order of the trial court issuing a writ of execution to enforce its decision declaring defendant Canopio entitled to the possession of a Mercedes Benz 280 SL 2-door sedan upon payment of P53,809.00 representing the amount paid to Philippine Rustproofing, Inc., P40,000.00 as attorney's fees and costs.

The Facts

The facts, as found by the Court of Appeals, are as follows:

"The dispositive portion of the June 19, 1989 decision reads:

'WHEREFORE, judgment is hereby rendered declaring defendant Aquino Canopio to have superior title over the Mercedes Benz: Series — 280 SL, Type of Body — 2 door coupe, Motor No. 110072-090080, Chassis No. 107042-12000223, Model 1974 as against the plaintiffs and is entitled to the immediate possession thereof as a matter of right and ordering the plaintiffs to forthwith deliver possession of the subject motor vehicle unto the said defendant upon reimbursement/payment by the latter of the amount of P53,809.00 representing the amount paid by the plaintiffs to the Philippine Rustproofing, Inc.; the plaintiffs to pay the amount of P40,000.00 as and for attorney's fees and the costs of suit."

"On the other hand, the Order assailed in this petition is hereby reproduced in its entirety, thus:

'The Supreme Court's resolution dated December 2, 1991 in G. R. no. 100263, entitled "spouses Victoria Serrano, et. al. v. Court of Appeals, et. al." is already final and executory (Entry of Judgment dated April 7, 1992). Consequently the obstacle to the execution of the Decision dated June 19, 1989 has been removed.

Nevertheless, plaintiffs oppose the Motion for Execution filed by defendant Aquino Ike D. Canopio on the grounds of supervening event and/or newly discovered evidence.

The matter relied upon in the opposition do not constitute either supervening event or newly discovered evidence, the same being in existence and known to, or ought to be known by, plaintiffs during the trial stage. Besides, the cited groups were already considered and passed upon in the decision. Finally, the newly discovered evidence may be adduced in a new trial (Rule 37, Rules of Court) or in relief from judgment (Rule 38, id.) but neither remedy is available at this time when the decision has long become final and executory.

Consequently, the Motion for the Issuance of a Writ of Execution to Enforce Decision filed by defendant Aquino Ike D. Canopio is granted. Let a writ of execution issue for the enforcement of the Decision.

SO ORDERED.' xxx

“Petitioners submit in this petition that respondent court is in error tantamount to a grave abuse of discretion in granting the Motion for the issuance of a writ of execution since it would be tolerating the illegality committed by respondent Canopio by virtue of which illegality the automobile under litigation was transferred in respondent Canopio’s name. Petitioners further argue: that all the certifications attached to the opposition to the Motion for the Issuance of a Writ of Execution to Enforce Decision were dated 1993 and therefore it could not have been taken up during the trial stage. (Rollo. P.5)

“In his Comment, private respondent argues that the petitioners herein has no more cause of action against them as the same is already barred by former judgment; that the issued raised in the instant petition is exactly the same as those raised in the previous case before this Honorable court entitled spouses Victoria V. Serrano and Arturo Serrano vs. The Honorable Ricardo Diaz, et. al. docketed as CA-G. R. No. 18815-SP; that said case before the Court of Appeals was subsequently elevated to the Supreme Court by a Petition for Review on certiorari and docketed as G.R. No.1 100263, entitled Spouses Victoria Serrano et. al. vs. Court of Appeals, et. al.; that since the decisions of both the Court of Appeals and the Supreme Court had long become final, it is very clear that the petition is barred by former judgment, and the former judgment is res adjudicata to the present case/instant petition, and hence, the instant petition should be dismissed, otherwise, it would mean an endless litigation. (Rollo, pp. 25-26)

“Thus, the sole issue raised by the instant petition is whether the respondent court gravely abused its discretion in ordering, upon motion of the private respondent, the issuance of a writ of execution to enforce the decision dated June 19, 1989 which has become final and executory as early as April 7, 1992 despite the averment by the petitioners in their Opposition, dated September 7, 1993 to private respondent’s Motion for Issuance of Writ of Execution, that 1) the letter of the Land Transportation Office thru (Ret.) Brig. Gen. Manuel Bruan dated June 1, 1993 with its attachments, 2) the affidavit executed by Hilario Roman, Jr. dated January 30, 1991 and 3) the certification dated September 3, 1993 executed by Federico Malibiran of the Land Transportation office constitute such ‘supervening event and/or newly discovered evidence’ as would prevent the execution of the respondent court’s decision dated June 19, 1989?”[2]

On July 27, 1985, the Court of Appeals rendered decision[3] dismissing petitioners’ appeal.

Hence, this appeal.[4]

The Issue

The issue raised is whether the Court of Appeals erred in-

- (a) ruling that res judicata bars the second action in the case; and
- (b) ruling that the requisites of a new trial on the ground of newly discovered evidence were not met.

The Court’s Ruling

We deny the petition.

We agree with the Court of Appeals that res judicata applies to the case at bar.

For a claim of res judicata to prosper, the following requisites must concur: (1) there must be a final judgment or order; (2) the court rendering it must have 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 two cases, identity of parties, subject matter and causes of action.[5]

The doctrine of *res judicata* has two aspects, to wit: (1) the effect of a judgment as a bar to the prosecution of a second action upon the same claim, demand or cause of action; and (2) preclude re-litigation of a particular fact or issue in another action between the same parties on a different claim or cause of action.[6]

Indeed, Civil Case 86-4324 1 had been the subject of appeal in the Court of Appeals twice. In both instances, the appeal was dismissed.

The first was on December 29, 1989, in *Sps. Serrano v. Judge Diaz and Canopio*.^[7] The decision in part reads:

“The conclusion is thus inescapable that no denial of due process was committed against petitioners because proper notice was served upon their counsel of record xxx, hence, petitioners had all the chance to file an appeal within the reglementary period, but which they miserably failed to do.

x x x

“Anent the second issue, no abuse of discretion was committed by the respondent judge when he granted private respondent’s motion for execution in view of the expiration of the reglementary period of fifteen (15) days from July 6, 1989, or until July. 21, 1989 to appeal. xxx”

The second was, again, in *Sps. Serrano v. Judge Cruz and Canopio*, promulgated on July 27, 1995.^[8] The decision reads:

“WE rule in favor of the private respondents.

“The petitioners rely on two legal concepts in support of this petition, namely: ‘supervening event’ and ‘newly discovered evidence.’ xxx

“Independently of petitioners’ failure to show compliance with the second requisite, the application of the concept of newly discovered evidence is also precluded by the lapse of the period for perfecting an appeal which in the case at bench ended fifteen (15) days after the receipt on July 6, 1989 by petitioners’ counsel of record of the June 19, 1989 decision.

xxx

“In all the above cases decided by the Supreme Court, events or ‘series of events occurred after the judgment was promulgated which changed the legal relationship of the parties to the litigation thereby rendering the execution of the original terms of the judgment impossible or unjust.

“In the instant case, although 1) the letter dated June 1, 1993 of (Ret.) Brig. Gen. Manuel Bruan, 2) the affidavit dated Jan. 30, 1991 of Hilario Roman, ‘Jr. and 3) the certification dated September 3, 1993 of Federico Malibiran were all executed after the promulgation of the Decision dated June 19, 1989-after which decision the petitioners have been allegedly prevented from establishing before the Court of Appeals and the Supreme Court that said decision dated June 19, 1989 is contrary to law and the evidence and subsequently, the decision became final on the basis of technicality and not on the merits xxx — none of the three documents could be categorized as a ‘supervening event’ that would render the execution of the Decision dated June 19, 1989 impossible or unjust. The reason is simple. These 3 documents merely evidence the ‘allegedly illegal transfer of ownership effected on June 11, 1984 by a certain Hilario Roman, Jr. by virtue of which transfer the petitioners were unlawfully deprived of their ownership over the automobile under litigation. They do not, by themselves, change the legal relationship of the petitioners and the private respondents.”

For purposes of *res judicata*, we have held that only a substantial identity of parties is required and not absolute identity. There is substantial identity of parties when there is community of interest between a party in the first

case and a party in the second case even if the latter was not impleaded in the first case.[9]

In this case, the same parties and the same subject matter are involved. The Court of Appeals ruling on the finality of the decision in Civil Case No. 86-34241, had itself become final and executory.

Thus, all the requisites of *res judicata* are present. Hence, the Court of Appeals correctly ordered the dismissal of the petition.

For newly discovered evidence to be a ground for new trial under paragraph (b) Section 2, Rule 121, it is required that i) the evidence is discovered after trial; ii) such evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence; and iii) the evidence is material, not merely cumulative, corroborative, or impeaching, and of such weight that, if admitted, would probably change the judgment.[10]

In this case, these requisites have not been met. As found by the Court of Appeals, all three documents, the letter of Brig. Gen Manuel Bruan dated June 1, 1993, the affidavit of Hilario Roman, Jr., dated January 30, 1991, and the certification of September 3, 1993 were all executed after the promulgation of the decision on June 19, 1989. These cannot be considered as newly discovered evidence.

In *Abrajano v. Court of Appeals*,^[11] we said that the basic ground for the grant of a new trial is that there has been a miscarriage of justice and that the new trial will be in the interest of justice.^[12] Where an injustice has been done, and a further trial is necessary to secure justice, courts have not only the right and inherent power, in its discretion, but also the duty, to grant a new trial.^[13] There is no such situation here. Petitioners were given every opportunity to present all possible issues in court and the corresponding decisions have been made with due regard to the law and justice. Granting the petition for new trial will not change the outcome thereof.

WHEREFORE, we DENY the petition and AFFIRM the decision of the Court of Appeals^[14] affirming the judgment of the Regional Trial Court, Manila, Branch 27.^[15]

No costs.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In CA-G.R. SP No. 32532, promulgated on July 27, 1995, Buena, J., ponente, Garcia and Vasquez, JJ., concurring.

[2] Petition, Annex "A", Rollo, pp. 18-24, at pp. 18-21.

[3] Rollo, pp. 18-24.

[4] Petition, Rollo, pp. 7-16.

[5] *Sendon v. Ruiz*, G.R. No. 136834, August 15, 2001; *Linzag v. Court of Appeals*, 353 Phil. 506, 522 [1998]; *Cagayan de Oro Coliseum, Inc. v. Court of Appeals*, 320 SCRA 731 [1999]; *Mirpuri v. Court of Appeals*, 318 SCRA 516 [1999]; *Saura v. Saura, Jr.*, 372 Phil. 337, 350 [1999].

[6] *Linzag v. Court of Appeals*, *supra*, Note 5.

[7] CA-G.R. SP NO. 18815, penned by Associate Justice Hector C. Fule, Rollo, pp. 114-119.

[8] CA-G.R. No. 32532, penned by Associate Justice Arturo B. Buena, Rollo, pp. 127-133.

[9] Sendon v. Ruiz, *supra*, Note 5, citing Sempio v. Court of Appeals, 348 Phil. 627, 636 [1998]; Anticamara v. Ong, 82 SCRA 337 [1978].

[10] People v. Tirona, 360 Phil. 611 [1998], citing People v. Alviado, 317 Phil. 359 [1995].

[11] 343 SCRA 68 [2000].

[12] 66 C.J.S. New Trial § 14.

[13] 66 C. J. S. New Trial § 202, citing cases. The reference is to trial courts but it has been held that the Supreme Court also has the power to grant a new trial. See Cuenca v. Court of Appeals, 321 Phil. 65 and cases cited therein.

[14] In CA-G. R. SP No. 32532.

[15] In Civil Case No. 86-34241.

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