ROSARIO BARBACINA, PETITIONER, VS. HONORABLE COURT OF APPEALS, SPOUSES RICHARD GAVINO AND MA. OLIVIA AMORIN GAVINO, CIRILO FARINAS AND THE REGISTER OF DEEDS OF QUEZON CITY AND N...

G.R. No. 135365. August 31, 2004

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a petition for review on certiorari which seeks to set aside the Decision[1] of the Court of Appeals dated August 28, 1998 affirming the dismissal of Civil Case No. Q-92-13538,[2] by the Regional Trial Court, Branch 92, Quezon City (RTC for brevity).

The antecedent facts are as follows:

Herein petitioner Rosario Barbacina filed a complaint for annulment of title of private respondents before the RTC, praying that the Conditional Contract to Sell and Deed of Sale executed by the National Housing Authority (NHA) in favor of respondent Cirilo Farinas be nullified and that TCT No. 145007 in the name of respondent Cirilo Farinas and TCT No. 383593 in the name of respondents spouses Richard and Ma. Olivia Gavino, covering a parcel of residential land described as Lot 3, Block 131 located at No. 11 Maginoo St., Barangay Piñahan, Quezon City, be cancelled.

Petitioner alleged in her complaint that: she had been in public, open and adverse possession of said parcel of land in the concept of owner for more than fifty years; the land was formerly owned by the NHA (formerly PHHC) whose policy was to award such lots to occupants thereof; even before the NHA acquired the property, she was already occupying the premises; she filed her application with the NHA (then PHHC) for the award to her of the subject property, but her application was ignored; she later discovered that the subject property had been awarded to Cirilo Farinas and the NHA had executed a Deed of Sale in favor of said awardee, despite the fact that he is not qualified for he never resided in the subject property; TCT No. 145007 dated September 17, 1969 was issued in the name of Cirilo Farinas; said TCT No. 145007 bore the annotation that the vendee shall construct a residential house and complete the same within a period of one year from the date written therein, but Cirilo Farinas never complied with said condition; since the NHA awarded the subject lot to Cirilo Farinas who is a non-resident and non-occupant, the Contract to Sell executed in favor of said awardee and the transfer certificate of title issued in his name are all null and void; Cirilo Farinas eventually transferred the subject lot to respondents spouses Richard and Ma. Olivia Gavino who were then issued TCT No. 383593; since the source of their title is null and void, TCT No. 383593 should likewise be cancelled for being null and void; the subject lot should then revert to the NHA for said agency to award the property to her.

Respondents spouses Gavino filed a motion to dismiss petitioner's complaint on the ground of res judicata, alleging that the validity of the title of Cirilo Farinas had already been upheld in two prior cases, i.e., Civil Case No. Q-28101 and Civil Case No. Q-43359. Respondents attached the Order dated February 13, 1980, issued by

the trial court in Civil Case No. Q-28101, whereby it dismissed petitioner's complaint for cancellation of title and nullification of deed of sale for utter lack of merit on the grounds that Cirilo Farinas' right of ownership over the lot in question cannot be overridden by herein petitioner's possession of the same and the action to annul the title issued to Cirilo Farinas should have been filed within one year from the date of issuance thereof on September 17, 1969. Respondents likewise attached the Decision dated December 14, 1990 in Civil Case No. Q-43359, whereby the trial court dismissed petitioner's petition for injunction against the NHA on the ground of res judicata, as the issues raised therein are the very same ones raised in Civil Case No. Q-28101.

Petitioner then filed a petition for certiorari with the Court of Appeals, docketed as CA-G.R. SP No. 25368, assailing the RTC decision dated December 14, 1990 in Civil Case No. Q-43359, which, in its decision dated February 17, 1992, sustained the trial court's ruling that Civil Case No. Q-43359 was already barred by prior judgment in Civil Case No. Q-28101.

Respondent NHA's Answer reiterated that petitioner's complaint should be dismissed on the ground of res judicata, while respondent Register of Deeds presented the defense that it was his ministerial duty to register titles and documents presented to him for registration if he finds the same to be in accordance with law and, in the case of the titles to the lot in question, he found all documents presented to him to be in order.

In her opposition to the motion to dismiss, herein petitioner argued that her present complaint cannot be barred by res judicata because there are five issues raised in the present case which were not raised or decided in the prior cases, to wit: (1) whether or not Cirilo Farinas was a qualified PHHC awardee; (2) whether or not the award of the lot to Cirilo Farinas and the Deed of Sale in his favor were valid; (3) whether or not Cirilo Farinas became the absolute owner of the lot in question considering that he failed to comply with the condition inscribed at the back of the title that he should complete the construction of a residential dwelling on said lot within one year from issuance of the title; (4) whether or not Cirilo Farinas, having failed to comply with the aforementioned condition, could sell the subject lot; and (5) whether or not the deed of sale executed by Cirilo Farinas in favor of respondents spouses Gavino is valid.

Thus, the RTC, in Civil Case No. Q-92-13538 issued an Order on December 29, 1992, granting private respondents' motion to dismiss. It ordered the dismissal of the complaint, ruling that indeed, the complaint in this case was already barred by prior judgment.

Petitioner moved for reconsideration of said order of dismissal, reiterating the arguments she raised in her opposition to the motion to dismiss and questioning the existence of the order of dismissal in Civil Case No. Q-28101 as records of said case could no longer be found with the branch of the Regional Trial Court which issued said order because the records of said court were completely destroyed on June 11, 1988.

On March 9, 1993, the RTC denied petitioner's motion for reconsideration, stating that the issues raised by petitioner had been ruled upon in the previous cases and the existence of the order dismissing Civil Case No. Q-28101 is already established as said order was referred to in the decision rendered in Civil Case No. Q-43359.

Petitioner then appealed to the Court of Appeals and on August 28, 1998, it promulgated its Decision affirming the RTC's dismissal of Civil Case No. Q-92-13538. The appellate court ruled that there was indeed identity of subject matter, causes of action, and parties between the present case docketed below as Civil Case No. Q-92-13538 and the prior case docketed as Civil Case No. Q-28101. No motion for reconsideration was filed by petitioner with the Court of Appeals.

Petitioner then filed the present petition for certiorari, alleging the following:

- THE HONORABLE COURT OF APPEALS ERRED WHEN, IN ITS DECISION DATED AUGUST 28,

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> 1998 AFFIRMED (sic) THE ORDER DATED DECEMBER 29, 1990 DISMISSING THE CASE ON THE GROUND OF RES JUDICATA, AND THE ORDER DATED MARCH 9, 1993, DENYING PETITIONER ROSARIO BARBACINA'S MOTION FOR RECONSIDERATION, ISSUED BY THE REGIONAL TRIAL COURT, BRANCH 76 [should be 92], QUEZON CITY.
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> - THE HONORABLE COURT OF APPEALS ERRED WHEN IT DID NOT DECLARE RESPONDENTS CIRILO FARINAS AND SPOUSES RICHARD GAVINO AND MA. OLIVIA AMORIN GAVINO AS PERSONS DISQUALIFIED FOR THE AWARD OF THE PROPERTY DESCRIBED IN TCT NO. 145007 IN THE NAME OF RESPONDENT CIRILO FARINAS AND TRANSFERRED AS TCT NO. 383593 IN THE NAME OF SPOUSES RICHARD GAVINO AND MA. OLIVIA AMORIN GAVINO.
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> - THE HONORABLE COURT OF APPEALS ERRED WHEN IT FAILED TO DECLARE AS NULL AND VOID THE AWARD OF THE PROPERTY IN QUESTION BY RESPONDENT NHA (FORMERLY PHHC) TO NON-RESIDENT RESPONDENT CIRILO FARINAS TOGETHER WITH THE CONDITIONAL CONTRACT TO SELL AND DEED OF SALE, IF ANY, ENTERED INTO BY AND BETWEEN RESPONDENTS NHA (FORMERLY PHHC) AND CIRILO FARINAS.
>
> - THE HONORABLE COURT OF APPEALS ERRED WHEN IT DID NOT DECLARE AS NULL AND VOID, THE DEED OF SALE, ENTERED INTO BY AND BETWEEN CIRILO FARINAS AND SPOUSES RICHARD GAVINO AND MA. OLIVIA AMORIN GAVINO.
>
> - THE HONORABLE COURT OF APPEALS ERRED WHEN IT FAILED TO ORDER RESPONDENT QUEZON CITY REGISTER OF DEEDS TO CANCEL TCT NO. 145007 IN THE NAME OF CIRILO FARINAS AND TCT NO. 383595 [should be 383593] IN THE NAME OF SPOUSES RICHARD GAVINO AND MA. OLIVIA AMORIN GAVINO.
>
> - THE HONORABLE COURT OF APPEALS ERRED WHEN IT DID NOT ORDER RESPONDENT NHA (FORMERLY PHHC) TO AWARD THE LOT IN QUESTION TO PETITIONER ROSARIO BARBACINA.

We find the petition to be utterly devoid of merit.

At the outset, we emphasize that factual questions are not reviewable by the Supreme Court in a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure. There is a question of fact when the doubt arises as to the truth or falsity of the alleged facts.[3] From such a definition, it is quite obvious that the issues raised by petitioner - i.e., whether or not Cirilo Farinas should have been disqualified as an awardee of a lot by the NHA; whether or not Cirilo Farinas has complied with the condition annotated at the back of the title issued to him; and whether or not the NHA should award the subject lot to herein petitioner – are questions of fact which cannot be raised in the present petition for review on certiorari.

Nevertheless, to put matters at rest, we will resolve the issue of whether or not the case at bar is indeed barred by res judicata.

It is necessary to determine whether all the elements for the application of the doctrine of res judicata are present in this case. In Cayana vs. Court of Appeals,[4] we enumerated such elements, to wit:

> For res judicata to apply, there must be (1) a former final judgment rendered on the merits; (2) the court must have had jurisdiction over the subject matter and the parties; and, (3) identity of parties, subject matter and cause of action between the first and second actions.

In the present case, petitioner reiterated her claim that no Order dated February 13, 1980, dismissing Civil Case No. Q-28101, could be found because the records of said case are not with the Branch of the RTC which supposedly issued the same. However, the reason why the records of Civil Case No. Q-28101 could not be produced was sufficiently explained by the Branch Clerk of Court of the RTC Branch which issued said order,

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when he testified in another criminal case for violation of the Anti-Squatting Law (P.D. No. 772) where herein petitioner was the accused, that the records in the custody of said court had been completely destroyed on June 11, 1988.[5]

Furthermore, in the Decision of the Court of Appeals in CA-G.R. SP No. 25368, wherein the decision of the trial court in Civil Case No. Q-43359 was upheld, the Court of Appeals referred to the existence of the trial court's order dismissing Civil Case No. Q-28101. Pertinent portions of said Court of Appeals Decision dated February 17, 1992, read thus:

> A Notice of Demolition issued by the Office of the City Engineer of Quezon City pursuant to administrative clearances and directed against the house of petitioner Rosario Barbacina situated at No. 11 Maginoo St., Central District, Quezon City was the spur to the filing by petitioner on August 3, 1979 of a civil suit for cancellation and/or annulment of title with preliminary mandatory injunction and damages before the then Court of First Instance of Quezon City, where it was docketed as Civil Case No. Q- 28101 and raffled to Branch LII. On February 13, 1980, the court dismissed the case on defendants' motion to dismiss.
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> Subsequently, on November 8, 1984, another notice was sent to petitioner by the city authorities thru herein respondent Romeo C. Espino – also on the strength of an order from respondent National Housing Authority – directing her to remove her house from the premises within 15 days from notice. Again, petitioner sought judicial relief from the impending eviction, filing on November 21, 1984 a petition with the Regional Trial Court of Quezon City to be protected in her possession and occupation of the disputed premises. Docketed as Civil Case No. Q-43359, the case was raffled to Branch 95, now presided by the Honorable Aloysius C. Alday.
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> On December 14, 1990, Judge Alday rendered a decision adverse to the petitioner, dismissing the case on the ground of res judicata. . . .
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> The thrust of petitioner's arguments under this issue is that respondent Judge committed error in applying the doctrine of res judicata to dismiss her petition in Civil Case No. Q-43359 . . .
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> . . . . . .
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> The essential requisites for the application of res judicata are: (1) there must be a final judgment or order; (2) the court that rendered the judgment must have jurisdiction over the subject-matter and the parties; (3) it must be a judgment on the merits; and (4) there must be between the two cases identity of parties, identity of subject matter, and identity of cause of action.
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> Petitioner obviously concedes the first three (3) elements; the controversy is limited to a difference of opinion as regards the fourth and last requisite.
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> . . . . . .
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> In both cases, petitioner's resort to the judicial forum was premised on the alleged wrongful and arbitrary threatened demolition of her house, as well as her threatened ejectment therefrom. The minor variances present in both cases are immaterial and cannot serve to obviate this one overriding fact.
>
> The identity of causes of action does not depend on similarity or difference in the form of the actions. A party cannot escape the operation of res judicata by resorting to a variation in the form of action or by adopting a different form of presenting his case (The Doctrine of Res Judicata, 76 SCRA 435, citing supporting cases).
>
> Prescinding from all the foregoing, the Court concludes that respondent Judge correctly applied the doctrine of res judicata against Civil Case No. Q-43359. [6]
>
> . . . . . .

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The existence and finality of the foregoing decision of the Court of Appeals is not being contested by petitioner. Thus, the declaration of the appellate court in said case, firmly established the fact that there was indeed an order of dismissal issued in the prior case docketed as Civil Case No. Q-28101. The existence of such an order being a certainty, there can be no question that the requirements that (a) there be a former final judgment rendered on the merits; and (b) that the court issuing such judgment had jurisdiction over the subject matter and the parties, are clearly present in this case.

Therefore, the only question for determination is whether or not the third requisite for res judicata is attendant, i.e., that there is an identity of parties, subject matter and cause of action between the first and second cases, exists in this case.

As to identity of parties in the present case and that of Civil Case No. Q-28101, petitioner posits that there is no such identity because the defendants in the present case are the Gavino spouses, Cirilo Farinas, the Register of Deeds of Quezon City, and the National Housing Authority, while in Civil Case No. Q-28101, the defendants were Cirilo Farinas, Rosario Farinas, Gaudencio Tobias as the General Manager of the National Housing Authority, Gerardo Magat as Chairman of Task Force Squatter, Relocation, Resettlement and Rehabilitation, and Pantaleon Tabora as City Engineer of Quezon City.

The supposed differences are, however, deceptive. Note that the inclusion of the Gavino spouses as defendants in the present case is merely due to the fact that they are successors-in-interest of Cirilo Farinas. In Civil Case No. Q-28101, Rosario Farinas, the sister of Cirilo Farinas, was included because petitioner alleged therein that Rosario Farinas was actually the one interested in the subject lot, but since she had already been awarded one lot, she used the name of Cirilo Farinas to apply for the award of the subject lot. Clearly, the Gavino spouses and Rosario Farinas represent one and the same interest - that of Cirilo Farinas'. In Taganas vs. Emuslan,[7] it was held that:

> There is identity of parties where the parties in both actions are the same or there is privity between them or they are 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.

In both Civil Case No. Q-28101 and the present case, although different public officers were impleaded, it should be noted that all such public officers were the different authorities mandated to enforce the rights of Cirilo Farinas whose valid ownership of the property had been finally adjudged by a competent court.

Clearly, the parties in both actions are substantially the same, representing the very same interest. We have ruled in Dela Rama vs. Mendiola[8] that "only a substantial identity is necessary to warrant the application of res judicata. The addition or elimination of some parties does not alter the situation." Hence, the element that there be identity of parties exists in this case.

With regard to the element of identity of subject matter, the subject of an action is defined as the matter or thing with respect to which the controversy has arisen, concerning which a wrong has been done.[9] There can be no doubt that the prior case and this one before us involves the very same lot located at No. 11 Maginoo St., Barangay Piñahan, Quezon City and the award thereof by the NHA to Cirilo Farinas, thus, the element of identity of subject matter is also present.

We then come to the determination of whether or not the causes of action in the two cases under consideration are identical. Petitioner argues that her present complaint cannot be barred by res judicata because there are five issues raised in the present case that were not raised or decided in the prior cases. Note that in Dela Rama vs. Mendiola,[10] we held that:

> . . . Causes of action are identical when there is an identity in the facts essential to the maintenance of the two

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> actions, or where the same evidence will sustain both actions. If the same facts or evidence can sustain either, the two actions are considered the same, so that the judgment in one is a bar to the other.
>
> . . . the difference in form and nature of the two actions is immaterial. The philosophy behind the rule on res judicata prohibits the parties from litigating the same issue more than once. . .
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> . . . . . .
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> When material facts or questions in issue in a former action were conclusively settled by a judgment rendered therein, such facts or questions constitute res judicata and may not be again litigated in a subsequent action between the same parties or their privies regardless of the form of the latter. This is the essence of res judicata or bar by prior judgment. The parties are bound not only as regards every matter offered and received to sustain or defeat their claims or demand but as to any other admissible matter which might have been offered for that purpose and of all other matters that could have been adjudged in that case.

The issue involved in Civil Case No. Q-28101 for cancellation and/or annulment of title is the validity of the NHA's award of the subject lot to Cirilo Farinas. In the present case, petitioner again assails the validity of the NHA's award to Cirilo Farinas, albeit petitioner now also raised the issue that since, in her belief, the title issued to Cirilo Farinas was null and void, then the transfer certificate of title issued to the Gavino spouses, the transferees of Cirilo Farinas, must also be null and void. It is quite glaring that the issues in the two cases are exactly the same, hinging on the validity of the NHA's award to Cirilo Farinas and the ultimate issuance of the title over the property in his name. Thus, even assuming arguendo that the five issues raised in this petition were not raised in the prior case, the present case would still be barred by res judicata because, as stated in the above quoted case, the parties are bound as to any other admissible matter which might have been offered for that purpose and of all other matters that could have been adjudged in the prior case.

In sum, we find that all the elements for the application of res judicata are present in this case. The trial court, upheld by the Court of Appeals, was, therefore, correct in dismissing petitioner's complaint in Civil Case No. Q-92-13538 for being barred by prior judgment.

WHEREFORE, the petition is hereby DENIED for utter lack of merit. Costs against petitioner.

SO ORDERED.

Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.
Puno, (Chairman), J., on official leave.

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[1] Penned by Associate Justice Rodrigo V. Cosico, with Associate Justices Jainal D. Rasul and Delilah Vidallon-Magtolis concurring.

[2] Entitled "Rosario Barbacina vs. Spouses Richard Gavino, et al."

[3] Londres vs. Court of Appeals, 394 SCRA 133, 144 (2002)

[4] G.R. No. 125607. March 18, 2004

[5] Petition, Rollo pp. 20-21.

[6] Records, pp. 39-46.

[7] G.R. No. 146980. September 2, 2003.

[8] 401 SCRA 704, 710-712 (2003).

[9] Taganas vs. Emuslan, Supra. See note 7.

[10] Supra. See note 8.

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