

HEIRS OF MARCIANO A. ROXAS, NAMELY: CIRILA N. VDA. DE ROXAS, ET AL., PLAINTIFFS AND APPELLANTS, VS. FLORENCIO GALINDO, ET AL., DEFENDANT AND APPELLEES.*G.R. No. 13578. May 31, 1960*

Ponente: LABRADOR, J.

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Plaintiffs appeal from an order of the Court of First Instance of Bulacan, Hon. Angel H. Mojica, presiding, denying their motion to amend their complaint, in Civil Case No. 1067, entitled Heirs of Marciano A. Roxas, et al., plaintiffs, vs. Florencio Galindo, et al., defendants.

On April 14, 1955, plaintiffs filed a complaint in the Court of First Instance of Bulacan, alleging that Gregorio Galindo, predecessor in-interest of defendants purchased on installment basis from the Bureau of Lands Lot No. 1048 of the S.M. de Pandi Estate located in Bulacan; that after the death of Gregorio Galindo, his legal heirs, namely Florencio Galindo, Anita and Zenaida Pagsanghan, the minors Juanito and Rogelio Esguerra and Mario, Leonila, Carmen, Esperanza, Bernardina and Benedicto Pagsanghan, Mercedes Galindo, and Federico de Guzman, also a minor, who was represented by his father, Luis de Guzman, who are some of the defendants herein, sold their rights and interests in said Lot Ncr. 1048 to Marciano A. Roxas, predecessor in-interest of herein plaintiffs, for P384.00, under a document (Documento de Compromiso) dated December 1, 1916 (Annex A to complaint); that by virtue of Annex A, the defendants bound themselves to execute a final deed of sale of said Lot 1048 in favor of Marciano A. Roxas; that defendant Urbano Galindo, who was still a minor when Annex A was executed, adopted as his own said document in an instrument dated May 23, 1931 (Annex B); that after execution of Annex A, the possession of Lot 1048 was transferred to the deceased Marciano A. Roxas, who has paid the balance of the purchase price to the Bureau of Lands; that herein plaintiffs continued to possess the land and to pay taxes thereon since the death of Marciano A. Roxas in June, 1950 to date; that on February 13, 1948, Transfer Certificate of Title No. T-2145 was issued over Lot 1048 by the Register of Deeds in the name of the legal heirs of Gregorio Galindo; that herein plaintiffs demanded of defendants execution of the final deed of sale pursuant to Annex A, but the latter refused and failed to execute the deed. Plaintiffs pray that defendants be ordered to execute the final deed of sale and to reconvey the lot to them, etc.

On May 9, 1955, defendants filed a motion to dismiss on the ground that (a) the cause of action is barred by statute of limitations, (b) the cause of action did not accrue against the defendants because of infancy, and (c) there is no cause of action. In said motion, defendants argue that insofar as the defendant Federico de Guzman is concerned, his father Luis de Guzman did not have authority to represent him in Annex A, and that the representation made by the latter is null and void (p. 18, Rec. on Appeal). This motion was opposed by the plaintiff on May 20, 1955, and in their opposition plaintiffs contend, among others, that although Federico de Guzman was not validly represented by his father, he has, after attaining majority, ratified said contract by his acts and declarations. Note, however, that the original complaint contains no allegation as to the supposed ratification. The court on July 19, 1955 dismissed the complaint only insofar as defendant Federico de Guzman is concerned,

for the reason that he was not a party to, nor was he validly represented, in the contract, Annex A. The court denied the motion to dismiss insofar as the other defendants are concerned, and on August 4, 1955, they filed their answer. A motion for reconsideration of the order dismissing the complaint with respect to Federico de Guzman was denied by the court on October 10, 1955. No appeal was taken from this order.

On October 29, 1956, plaintiffs filed with the Court of Appeals a "Complaint for Certiorari and Mandamus with Preliminary Injunction", which was docketed therein as CA-G.R. No. 18810. The petition sought to annul and set aside the orders of the judge dated July 19, 1955 and October 10, 1955, issued in Civil Case No. 1067, to compel respondent judge to reinstate de Guzman as party defendant in said case, and to restrain the said judge from hearing the case on the merits until after adjudication of the issues raised in the petition. But the Court of Appeals on January 11, 1957 dismissed the petition for certiorari and mandamus and dissolved the preliminary injunction previously issued, for the reason that the petition is not the proper remedy.

On May 10, 1957, plaintiffs herein filed a "Motion to Admit Amended Complaint", to include in the amended complaint the following facts against defendant Federico de Guzman:

"10. * * * and Federico de Guzman, duly represented by his father and natural guardian, Luis de Guzman, * * *."

"17. To this date, long after his disability by non-age had ceased, defendant Federico de Guzman had not sought the nullity of the contract entered into in his name by his father and natural guardian and had ratified and acquiesced in said contract.

"18. That plaintiffs and their predecessor in interest have acquired title to Lot No. 1048 including the portion pertaining to defendant Federico de Guzman by acquisitive adverse possession openly, publicly, continuously under a claim of title exclusive of any other right and adverse to all claimants."

This motion was opposed by the defendants, claiming that the amended complaint sought to be admitted is filed out of time and that the original case between plaintiffs and Federico de Guzman is now *res judicata* and can no longer be reopened. After a reply to the opposition was filed by plaintiffs, the court on October 1, 1957 denied the motion to admit the amended complaint. The reason for the denial is that the order of the court dated July 19, 1955, dismissing the complaint insofar as Federico de Guzman is concerned, has already become final. This is the order now sought to be set aside in this appeal.

Two questions present themselves for our resolution to decide the appeal, namely, (1) whether the original complaint against Federico de Guzman, which complaint has been dismissed and the order of dismissal have become final, may still be subject of amendment in view of the fact that the order of dismissal has become final; and (2) whether the original complaint may still be subject to amendment. The appellee claims that under Rule 30, Section 4 of the Rules of Court, which provides:

"Unless otherwise ordered by the court, any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, operates as an adjudication upon the merits."

the dismissal of the complaint against Federico de Guzman operates as an adjudication of the merits and bars the amended complaint filed against said Federico de Guzman.

It should be remembered that the principle of *res judicata* actually embraces two different concepts, each of which is distinct and different from the other. The first concept is known as "Bar by former judgment" and the other, as "conclusiveness of judgment". Chief Justice Moran explicitly points out these differences between the first and the second:

"In this regard, distinction should be made between 'bar by former judgment' and 'conclusiveness of the

judgment.' There is 'bar by former judgment' when, between the first case where the judgment was rendered, and the second case where such judgment is invoked, there is identity of parties, subject-matter and cause of action. When the three identities are present, the judgment on the merits render in the first case constitutes an absolute bar to the subsequent action. It is final as to the claim or demand in controversy, including the parties and those in privity with them, not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have offered for that purpose. * * *.

"But where between the first case wherein the judgment is rendered and the second case wherein such judgment is invoked, there is identity of parties, but there is no identity of cause of action, the judgment is conclusive in the second case, only as to those matters actually and directly controverted and determined, and not as to matters merely controverted and determined, and not as to matters merely involved therein. This is what is termed 'conclusiveness of the judgment' * * *."

The first rule, or the bar by former judgment, is contained in the following legal provision:

"Sec. 44. Effect of Judgment.—The effect of a judgment or final order rendered by a court or judge of the Philippines, having jurisdiction to pronounce the judgment or order, may be as follows:

* * * * *

(b) In other cases the judgment so ordered is, in respect to the matter directly adjudged conclusive between the parties and their successors in interest by title subsequent to commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity." (Rule 39, Rules of Court.)

while the second one is contained in this Rule:

"Sec. 45. What is deemed to have been adjudged.—That only is deemed to have been adjudged in a former judgment which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto." (Id.)

The question to be decided is, Which of the above rules apply to the case at bar?

The complaint which was dismissed as to Federico de Guzman contains in paragraph 10 thereof the following allegations as to how Federico de Guzman participated in the sale:

"10. That after Gregorio Galindo's death, his legal heirs, the herein defendants * * * Federico de Guzman, represented by his father Luis de Guzman, sold for the sum of THREE HUNDRED EIGHTY FOUR PESOS (P384.00) to Marciano A. Roxas, herein plaintiffs' predecessor under a document (Documento de Compromiso) * * *." (p. 4, Rec. on Appeal)

We must note that there is nothing in the complaint about any subsequent act of ratification by Federico de Guzman of the sale after he reached his age of majority. So in the order dismissing the complaint as to Federico de Guzman, the court expressly declares:

"Considering that defendant Federico de Guzman was not a party to the said contract (Annex A) or was he validly represented by his father, Luis de Guzman:

"Wherefore, the complaint is hereby dismissed insofar as the defendant Federico de Guzman is concerned and the motion to dismiss filed by the other defendants is hereby denied. * * *." (pp. 41-42, Rec. on Appeal)

We hold that the rule of res judicata applicable is that of conclusiveness of judgment defined in Section 45 of the Rules, so that what was concluded in the order abovequoted is that in the execution of the deed of sale Annex A, Federico de Guzman was not validly represented by his father. It is this conclusion that was arrived at in the final order dismissing the complaint against Federico de Guzman.

It will be seen that the allegations contained in the amendments introduced in the amended complaint have not been passed upon in the above-mentioned order. The amendments are that Federico de Guzman since he attained majority has not sought to annul the deed as to the representation by his father and he has ratified the contract and acquiesced therein, and that plaintiffs have acquired the land by adverse possession. These new allegations present new issues not decided in the order of dismissal. The rule of *res judicata*, known as "bar by former judgment" is not applicable because "there is no identity of issues" between those contained in the original complaint and those contained in the amended one. What is applicable is the rule of conclusiveness of judgment as we have said above. It necessary follows that the order of dismissal does not bar the amended complaint.

We next come to the second question, whether the amendment may still be introduced. The record shows that there has not been any trial of the case on the merits as yet. The rule on amendment provides:

"Sec. 2. By leave.—The court may, upon motion at any stage of an action, and upon such terms as may be just, order or give leave to either part to alter or amend any pleading, process, affidavit, or other document in the cause, to the end that the real matter in dispute and all matters in the action in dispute between the parties may, as far as possible, be completely determined in a single proceeding. But such order or leave shall be refused if it appears to the court that the motion was made with intent to delay the action." (Rule 17, Rules of Court)

The rule expressly directs that the court should amend any pleading to the end that all matters in dispute between the parties may, as far as possible, be completely determined in a single proceeding" Precisely such are the circumstances in the case at bar. If the amendment is not allowed, another action would have to be instituted against Federico de Guzman thus making two actions, two trials, and two appeals possible and probable. This situation is what the rule precisely seeks to avoid—to limit the decision of all the issues in a single proceeding.

It is apparent to us that the judge below violated the above directions of the rule when he denied the motion for amendment. He also committed an error in holding that the proposed amendment may not be admitted as his previous order of dismissal has become final.

Wherefore, the order appealed from is hereby reversed and the amended complaint ordered admitted. With costs against the defendant-appellee. So ordered.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Concepcion, Barrera, and Gutierrez David, JJ., concur.
Reyes, J.B.L., and Endencia, JJ., took no part.

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