

AMADEO SAPUL, PETITIONER AND APPELLANT, VS. JUDGE ESTEBAN S. SIVA, JUSTICE OF THE PEACE OF SAN JOAQUIN, ILOILO AND FLORA SIGUALAN “ALIAS SAPUL”; ACCOMPANIED BY HER HUSBAND GAUDI...

G.R. No. 14091. August 25, 1959

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On August 9, 1957, Flora Sapul and her husband Gaudioso Seares filed an action in the Justice of the Peace Court of San Joaquin, Iloilo, against Dominador Serdena and Pedro Servidad to recover the possession of a parcel of land and damages. The complaint was later amended so as to include Amado Sapul as party-defendant. Defendants filed a motion to dismiss on the ground that there is another action pending between the same parties involving the same cause and that the complaint does not state a cause of action. The motion was denied. Defendants filed a motion for reconsideration and the same was likewise denied.

On November 6, 1957, Amado Sapul, one of the defendants in the aforementioned case, filed a petition for certiorari with preliminary injunction with the Court of First Instance of Iloilo on the ground that the Justice of the Peace Court of San Joaquin acted with grave abuse of discretion in denying his motion to dismiss as well as his motion for reconsideration. The petition was given due course and the court issued the writ of injunction prayed for upon petitioner's filing a bond in the amount of P500.00.

Respondents answered the petition setting up certain special defenses and a counterclaim. They contended that the petition had no merit and was filed merely out of resentment and ill-will and so they asked that petitioner be ordered to pay them actual and moral damages. After hearing, the Court found the petition without merit and dismissed it dissolving the writ of preliminary injunction it had issued. The Court ordered petitioner to pay respondents the sum of P300.00 as attorney's fees and the costs of action. Petitioner took this appeal on purely questions of law.

The motion to dismiss was predicated on the ground that there was another action pending between the same parties involving the same cause of action before the Court of First Instance of Iloilo, but the motion was denied because the Justice of the Peace Court found that there was no identity of parties or of cause of action in the cases mentioned which caused petitioner, now appellant, to file a petition for certiorari against said Justice of the Peace Court alleging grave abuse of discretion. Again, the trial court found that the contention of petitioner is untenable and, consequently, it dismissed the petition.

We find this action justified.

In order that a motion to dismiss may be entertained on the ground of pendency of another action between the same parties for the same cause it is necessary that, between the action under consideration and the other action involved, there be (1) identity of parties, or at least such as representing the same interest in both actions; (2)

identity of rights asserted and relief prayed for, the relief being founded on the same facts; and that (3) the identity on the preceding particulars be such that any judgment which may be rendered on the other would, regardless of which party is successful, amount to res adjudicata in the case on hand. (Francisco vs. Vda. de Bias, 93 Phil., 1; Diana vs. B.T.C., 49 Off. Gaz. 2238). Here these requisites are not present for a cursory reading of the complaint filed in the case before the Justice of the Peace Court of San Joaquin (case No. 67) as well as of the complaint filed in the Court of First Instance of Iloilo (case No. 4381) would readily show that the parties as well as the subject matter in the two cases are different in number and in nature. Thus, while the plaintiffs in one case are Flora Sapul and her husband Gaudioso Seares, in the other the plaintiffs are Amado Sapul, Leon Sigualan and Consolacion Sigualan, and while the defendants in one case are Dominador Serdena, Pedro Servidad and Amado Sapul, in the other the defendants are Pelagio Sigualan and others who are more than ten (10) in number. Again, while the first case is for the recovery of a parcel of land and damages, in the other the subject of the action is partition of two parcels of land which are different from the one involved in the first case. The dissimilarity in the parties and in the subject matter involved in the two cases is such that one can draw no other conclusion than that the judgment that may be rendered in one cannot have the effect of res adjudicata in the other. Verily, the two cases are substantially dissimilar that cannot serve as basis for a motion to dismiss on the ground invoked by petitioner.

Another reason why this petition cannot be sustained is that the order of the Court denying the motion to dismiss is merely interlocutory which cannot be the basis of a petition for certiorari. As this Court aptly said: "Elementary, of course, is the principle that an order denying plaintiffs petition to declare defendant in default is interlocutory; no appeal lies therefrom. And we have ruled that as no appeal lies, neither will a certiorari petition be entertained to circumvent the principle." (Prudential Bank & Trust Company vs. Hon. Higinio Macadaeg, et al., 105 Phil., 791).

Wherefore, the decision appealed from is affirmed, with costs against petitioner.

Paras, C. J., Bengzon, Padilla, Montemayor, Labrador, Concepcion, Endencia, and Barrera, JJ., concur.

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