

AMABLE VALDEZ, PLAINTIFF AND APPELLANT, VS. PEDRO OCTAVIANO, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 16427. March 20, 1961

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is an appeal from an order entered by the Court of First Instance of Baguio City dismissing the complaint of Amable Valdez on the ground of *res judicata*.

It appears that on July 20, 1959, Amable Valdez, claiming to be a co-owner of spouses Pedro and Josefa Octaviano of a lot known as Lot 147 New-B Residential Section K, Baguio townsite, containing an area of 2,008 sq. m., filed a complaint, in said court praying that said spouses be ordered to pay him the sum of P9,300.00 as his share in the sale of 300 sq. m. of the above-mentioned property to Ilagan Funeraria.

The defendants filed a motion to dismiss on the ground that the action is barred by a prior judgment. To support their motion they invoked the final decision and orders entered by the court in Civil Cases Nos. 832, 110 and 115 involving the same parties and the same subject matter. Plaintiff filed an opposition to the motion claiming that, in view of the failure of defendants to pay him the sum of P300.00 which they were ordered to pay in paragraph 3 of the amicable settlement covered by the decision in Civil Case No. 382, said settlement became ineffective thereby placing the parties in status quo with regard to the property litigated.

The lower court, overruling this contention, dismissed the complaint in an order which reads:

"A motion to dismiss has been presented on the ground of *res judicata*, that by virtue of a final judgment of this Court, Plaintiff had already renounced all rights to the land and improvements in question. The certified copy of the decision as well as orders in two other attempts of Plaintiff to reopen the same issues before this Court have been presented in evidence and all amply support the contention of Defendants that *res judicata* exists.

"The motion to dismiss is granted and Plaintiffs complaint is dismissed with costs against Plaintiff."

There is no merit in this appeal. It appears that the property of which plaintiff claims to be co-owner and portion of which was sold by defendants to Funeraria Ilagan has already been adjudicated to said defendants for valuable consideration in the amicable settlement concluded between the parties in the former case wherein they were enjoined to strictly comply with the terms and conditions thereof.[1] In said settlement appellant had expressly renounced whatever claim or right he may have over the lot in litigation as well as over the improvements existing thereon. The decision became final for lack of appeal. And on the strength of said settlement appellees made the sale of a portion of the land which appellant is now disputing allegedly as a co-owner of the property. Evidently, this claim is now barred by prior judgment under the principle of *res judicata*.

It is true that appellant now claims that one of the conditions stipulated in the amicable settlement is that appellees should pay appellant the sum of P300.00 as reimbursement of certain expenses incurred by him in connection with the property and that appellees have failed to comply with said condition. This failure, however, even if true,

cannot have the effect of rescinding or nullifying the amicable settlement. The remedy of appellant is to file a motion for the execution of that portion of the judgment and not litigate anew the property which has been the subject of settlement in the former case. This matter is now res judicata.

Wherefore, the order appealed from is affirmed, with costs against appellant.

Bengzon, Acting C. J., Padilla, Labrador, Concepcion, Reyes, J. B., L., Barrera, Paredes, and Dizon, JJ., concur.

[1] The compromise was signed on December 19, 1940.

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