

**GABRIELA SAN DIEGO, IN HER OWN BEHALF AND AS
ADMINISTRATRIX OF THE INTESTATE ESTATE OF THE DECEASED
PEDRO ALEJANDRINO, PETITIONER, VS. BERNABE CARDONA AND
THE REGISTER OF DEEDS ...**

G.R. No. 46655. June 27, 1940

Ponente: MORAN, J.

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MORAN, J.:

An appeal by certiorari from the judgment of the Court of Appeals.

Petitioner Gabriela San Diego, in her own behalf and as administratrix of the intestate estate of the deceased, Pedro Alejandrino, filed an action against Bernabe Cardona to quiet the title over lot No. 2051 and to annul transfer certificate of title No. 6433, alleged to have been fraudulently obtained by the defendant in collusion with one Martial Sibal, register of deeds of Tarlac, who is joined as codefendant. The defendant interposed several defenses, the most important of which is *res adjudicata*.

It appears, as found by the Court of Appeals, that the questions herein litigated on lot No. 2051 have already been determined and decided in the former civil case No. 3448 of the Court of First Instance of Tarlac and appealed to the Supreme Court as G. R. No. 42072. In the former case, the herein respondent, Bernabe Cardona, was the plaintiff, and the herein petitioner, Gabriela San Diego, in her capacity as administratrix of the intestate estate of the deceased, Pedro Alejandrino, the defendant. The subject matter was the same lot No. 2051, and one of the issues was whether or not Bernabe Cardona had secured, through fraud, the same transfer certificate of title No. 6433 in collusion with his brothers. The Supreme Court, on appeal, declared the said transfer certificate of title to be valid, the evidence to the alleged fraud not being convincing and satisfactory and ordered the then defendant, now plaintiff and petitioner, to deliver lot No. 2051 to the plaintiff, now respondent, Bernabe Cardona, and to pay him damages and costs.

It is a settled rule that a final judgment or order on the merits, rendered by a court having jurisdiction of the Subject matter and of the parties, is conclusive in a subsequent case between the same parties and their successors in interest litigating upon the same thing and issue, regardless of how erroneous it may be. In order, therefore, that there may be *res adjudicate*, the following requisites must be present: (a) the former judgment must be final; (b) it must have been rendered by a court having jurisdiction of the subject-matter and of the parties; (c) it must be a judgment on the merits; and (d) there must be, between the first and the second actions, identity to parties, of subjectmatter, and of cause of action.

There is no question that the judgment rendered in civil case No. 8448 of the Court of First Instance of Tarlac and G. R. No. 42072 of the Supreme Court, is already final. The court rendering such judgment had jurisdiction of the subject matter and of the parties. It is a judgment on the merits. All then that remains to be inquired into is whether or not there is, between the two cases, identity of parties, of subject matter and of cause of action.

Petitioner argues that there is no identity of parties, because, in the former action, she was sued in her capacity as administratrix of the intestate estate of the deceased, Pedro Alejandrino, while in the present action, she is suing in her own name and in her capacity as administratrix of the said intestate estate. It is a fact, however, shown by the decision of the Supreme Court, that in the former case, the petitioner has pleaded not only the rights of her deceased husband, Pedro Alejandrino, but her own personal rights as well. And, indeed, being a widow of the deceased Pedro Alejandrino, the action filed against her as administratrix, involves not only the rights of the deceased, but also her own personal rights in the conjugal property, the liquidation of which should be carried out in the intestacy of her deceased husband. We hold, therefore, that under these circumstances, there is substantial indentity of parties between the first and the second actions. It is true that in the second action, the registrar of deeds, who was not a party to the first action, has been joined as a codefendant. We have since held, however, that, although in the second action there are joined parties who were not joined in the first action, there is still *res adjudicata* if the party against whom the judgment is offered in evidence was a party in the first action. (*Peñalosa vs. Tuason*, 22 Phil. 303, 323.) Otherwise, no matter how often a case be decided, the parties might renew the litigation by simply joining new parties. (*Alzua and Arnalot vs. Johnson*, 21 Phil., 308, 374.)

Petitioner contends that there is no identity of cause of action, for, in the first case, the action was for illegal detainer, while, in the second, it is on title or ownership. It is a fact, however, shown by the decision of the Supreme Court, that the former action was founded on right of possession by virtue of the title or ownership acquired by Bernabe Cardona. It was not for illegal detainer, for the deceased, Pedro Alejandrino, had been in possession of the property for years by tolerance of Bernabe Cardona predicated on an agreement he had with the deceased.

But petitioner now argues that the fraud alleged in the first action, by which Bernabe Cardona obtained his title, is not the same fraud alleged in the present action. In the first case, the fraud was alleged to have been committed by Bernabe Cardona in collusion with his brothers. In the present case, the fraud is alleged to have been committed by him in collusion with the register of deeds. This new allegation of fraud, not having been made in the former action, is barred. The former judgment operates as a *res adjudicata* not only in regard to the specific defense alleged by the petitioner in the former action, but also as to the nonexistence of another defense which has not been pleaded therein. "The reason for this rule lies in the principle that there must be an end to litigation, and, where a party has an opportunity to present his defense and neglects to do so, the demands of the law require that he should take the consequences. A defendant cannot split up his defenses when they are indivisible and present them by piecemeal in successive suits growing out of the same transaction. The rule has been laid down broadly that a judgment for the plaintiff sweeps away every defense that should have been raised against the action, and this for the purpose of every subsequent suit, whether founded upon the same or different cause." (15 R. C. L., 969, 970, cited in *Philippine National Bank vs. Barreto*, 52 Phil., 818, 824.)

Judgment is affirmed, with costs against petitioner.

Avanceña, C.J., Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

Petition denied.

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