

**HEIRS OF MATILDE CENIZAL ARGUSON, REPRESENTED BY
ALBERTO ARGUSON, PLAINTIFFS-APPELLANTS, VS. REMEDIOS
MICLAT, DEFENDANT-APPELLEE.**

G.R. No. 61049. April 15, 1985

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from an order of the Court of First Instance of Cavite which dismissed a complaint for reconveyance on grounds of *res judicata*. The appeal was filed with the former Court of Appeals but it was certified to this Court on a finding that only a pure question of law was involved. The Court of Appeals, now Intermediate Appellate Court, limited itself to summarizing the facts and the issues. It refrained from, in any way, passing upon any of the questions raised.

On February 25, 1980, the plaintiffs-appellants filed a complaint against Remedios Miclat with the Court of First Instance of Cavite for the conveyance and surrender to the plaintiffs of a one-half portion of the land now covered by Transfer Certificate of Title No. 80392 and the payment of actual damages, moral damages, exemplary damages, attorney's fees, and costs.

The plaintiffs averred that during the lifetime of the late Matilde Cenizal Arguson, she and her brother Apolinar Cenizal inherited jointly from their father Gregorio Cenizal, a one-half portion of the lot located at Biwas, Tanza, Cavite. It appears however, that on February 29, 1972, the defendant's father and the heirs of Apolinar Cenizal executed an instrument of recognition and confirmation whereby they made it appear that Gregorio Cenizal had sold the land to Juan Miclat, predecessor of defendant Remedios Miclat. After the execution of the instrument, Juan Miclat allegedly sold the land to his daughter, defendant Remedios Miclat, who secured TCT 80392 over the land. The plaintiffs averred that in a decision dated June 13, 1978 of the Court of First Instance of Cavite, the instrument of recognition and confirmation was declared null and void, thereby rendering all transactions emanating from it similarly void. The plaintiffs averred that Apolinar Cenizal could lawfully dispose of only one-half of the disputed property and, therefore, the transfer of the entire disputed area to Remedios Miclat was improper and in bad faith. Hence, the plaintiffs asked for reconveyance and surrender of a one-half portion of the land plus the damages, attorney's fees, and costs earlier mentioned.

On April 11, 1980, the defendant-appellee filed a motion to dismiss based on the ground that the plaintiffs' cause of action is barred by prior judgment.

According to the defendant, the plaintiffs had earlier filed on April 14, 1976 a case for the annulment of an "Instrument of Recognition and Confirmation" against Juan Miclat who was later substituted upon his death by Remedios Miclat and the other heirs. This earlier case, Civil Case No. NC-676, was decided on June 13, 1978. The dispositive portion of the decision reads:

"WHEREFORE, under our present imperatives, judgment is hereby rendered and this Court declares the defendants' Instrument of Recognition and Confirmation dated February 29, 1972 (Exh. J) null and void and

inoperative, without prejudice to the present ownership of defendant Remedios Miclat Manalo."

According to the defendant-appellee, the issue of ownership was already resolved in Civil Case No. NC-676. The following portion of the decision was cited:

"Nevertheless, this court is prepared to recognize the present real ownership of the land subject matter of the same false documents under the name of defendant Remedios Miclat Manalo, it appearing that methods of revelations during the trial in this case involved questions of ownership concerning the same parcel of land, and this court should go along the cherished rule of procedure to the effect that all disputes should be settled in one single proceeding leaving no root or branch to produce the seeds of inevitable litigation. (Ledesma Overseas Shipping Corporation v. Avelino, et al. GR. No. L-47698, April 28, 1978). Although plaintiffs do not agree with the defendants' postulations about the presumption about the sale of the land subject matter in controversy by deceased Juan Miclat on July 31, 1941, nevertheless his possession over the same land for thirty four years has gained for his advantage the ownership thereof in the concept of an owner. Under the Code of Civil Procedure, ten years of actual and adverse possession by any person claiming to be the owner for that time of any land in whatever way his occupancy might have commended or continued and under a claim of title exclusive of any other right and adverse to all other claimants, could result in the acquisition of title thereto by prescription. (De Lima versus Tio, 32 SCRA 516). AFORTIORI, under the positivisms of the case of Juan Sindiong versus Commission on Burnt areas and improvement of Cebu (10 SCRA 715), the rights of defendant Remedios Miclat Manalo should now be upheld for the reason that she acquired the land in good faith and for value. She was not aware of any claim against the property subject matter of the falsified documents now sought to be annulled."

On May 16, 1980, the lower court upheld the res judicata argument and granted the motion to dismiss.

The plaintiffs-appellants raised the following assignment of error in their appeal:

THE LOWER COURT ERRED IN HOLDING THAT THE PLAINTIFFS' CAUSE OF ACTION HAS BEEN BARRED BY A PRIOR JUDGMENT ON JUNE 13, 1978 IN CIVIL CASE NO. NC-676 OF THE SAME COURT, HENCE THE PRINCIPLE OF RES ADJUDICATA APPLIES IN THIS CASE.

According to the appellants, the cause of action in the 1978 decision was annulment of an instrument while the cause of action in the instant case is partial reconveyance of property.

The appellee contends otherwise. She alleges that what was actually controverted and determined in the previous suit relates to the propriety of her ownership over the disputed property. She claims that the question of ownership was resolved in her favor. The decision became final and is now allegedly res judicata to the present action. She prays in this appeal that the order of dismissal be affirmed in toto.

In *Philippine Commercial and Industrial Bank v. Pfleider* (65 SCRA 13), this Court stated that the requisites of res judicata are:

xxx xxx xxx

"x x x (1) the presence of a final former judgment (which is in Civil Case No. 2860); (2) the former judgment was rendered by a court having jurisdiction over the subject matter and the parties; (3) the former judgment is a judgment on the merits; and (4) there is, between the first (Civil Case No. 2860) and the second (the case at bar) actions, identity of parties, of subject matter, and of cause of action. (See *Licup v. Manila Railroad Co., et al.* G. R. No. L-16196, May 30, 1961; 2 SCRA 267; *Nator, et al. v. Court of Industrial Relations, et al.*, G. R. No. L-16671, March 30, 1962, 4 SCRA 727; *Malvar, et al. v. Pallingayan, et al.*, G. R. No. L-24736, September 27, 1966, 18 SCRA 121; *Suarez v. Municipality of Naujan, Oriental Mindoro, et al.* G. R. No. L-22282, November 21, 1966, 18 SCRA 682)."

In *Sy Kao v. Court of Appeals* (132 SCRA 302), we ruled:

"Time and again, we have enumerated the elements of *res judicata* as follows: (1) identity of parties or at least such as representing the same interest in both cases; (2) identity of rights asserted and reliefs being founded on the same facts; and (3) identity in the two preceding particulars should be such that any judgment which may be rendered on the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration (See *Marapao v. Mendoza*, 119 SCRA 99)."

There is no dispute in this case as to the jurisdiction of the court which rendered the first judgment nor as to the finality of that judgment on the merits. There is also no question as to the identity of parties and subject matter. The plaintiffs-appellants limit themselves to the allegation that the cause of action in the earlier case, and the present case are entirely different. For them, there is no identity of rights asserted.

The test of identity of causes of action is whether the same evidence would support and establish both the former and the present causes of action. (*Peñalosa v. Tuason*, 22 Phil. 303; *Garcia v. Court of Appeals*, 14 SCRA 721 and *Viray v. Mariñas*, 49 SCRA 44).

Likewise, it is a firmly established rule that a different remedy sought or a diverse form of action does not prevent the estoppel of the former adjudication (*Peñalosa v. Tuason*, supra; *Juan v. Go Cotoy*, 26 Phil. 328; *Chua Tan v. Del Rosario*, 57 Phil. 411; *Francisco v. Blas*, 93 Phil. 1; *Sarabia v. Secretary of Agriculture and Natural Resources*, 2 SCRA 54; and *Kidpalos v. Baguio Gold Mining Company*, 14 SCRA 913).

We find the stand of the appellee to be well taken. The cause of action in the complaint for annulment of the instrument of recognition and confirmation is anchored on the right of ownership. It cannot be denied that the cause of action in the second complaint for partial reconveyance of property is likewise right of ownership.

Applying the test for determining the existence of *res judicata*, we find that the same evidence would support and establish both the present and former causes of action. The second action may no longer be allowed. As ruled in *Sarabia v. Secretary of Agriculture and Natural Resources*, (supra), parties should not be permitted to litigate the same issue more than once, that when a right or fact has been judicially determined, the judgment of the court, so long as it remains unreversed, is conclusive upon the parties and those in privity with them in law or estate.

We find the cause of action in both cases identical.

WHEREFORE, the order granting the motion to dismiss on the ground of *res judicata* is hereby AFFIRMED. The appeal is DISMISSED.

SO ORDERED.

Melencio-Herrera, Plana, Relova, De La Fuente, and Alampay, JJ., concur.
Teehankee, (Chairman), J., no part.

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