

SY KAO AND CHUA LIAN KING, PETITIONERS, VS. HON. COURT OF APPEALS, HONORABLE JOSE P. CASTRO, PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, BRANCH IX, (QUEZON CITY) AN...

G.R. No. 61752. September 28, 1984

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The doctrine of res judicata is invoked by herein petitioners as ground for instituting the present petition after the respondent court denied their motion to dismiss based on the same doctrine.

Petitioners Sy Kao and Chua Lian King, are the widow and son respectively of the late Chua Bing Guan, who died on October 29, 1967.

On November 11, 1967, the petitioners executed a deed of "Extra Judicial Settlement of the Estate of the late Chua Bing Guan", adjudicating to themselves as the only surviving heirs all the properties left by the deceased. This deed was duly registered.

On November 14, 1968, the private respondent Chua Keng Giap filed a petition for the settlement of the intestate estate of the deceased Chua Bing Guan, docketed as Special Proceedings No. Q-12592, in the Court of First Instance of Rizal, Branch IV. In his petition, the respondent alleged that he and petitioner Chua Lian King are the sons of petitioner Sy Kao and the deceased, the latter having died without leaving any will. He prayed that letters of administration be issued in his favor.

Petitioner Sy Kao denies that respondent Chua Keng Giap is her son by the deceased Chua Bing Guan. Thus, petitioner's opposition filed on December 19, 1968, is based principally on the ground that the respondent was not the son of Sy Kao and the deceased but of a certain Chua Eng Kun and his wife Tan Kuy.

After hearing on the merits which lasted for ten years, the court dismissed the respondent's petition on March 2, 1979 on a finding that he is not a son of petitioner Sy Kao and the deceased, and therefore, had no lawful interest in the estate of the latter and no right to institute the intestacy proceedings.

The respondent tried to appeal the court's resolution but his appeal was denied by the lower court for having been filed out of time. He then filed a mandamus case with the Court of Appeals but the same was dismissed. Respondent, therefore, sought relief by filing a petition for certiorari, G. R. No. 54992, before this Court but his petition was likewise dismissed on January 30, 1982 for lack of merit. His subsequent motions for reconsideration met a similar fate.

Meanwhile, on July 14, 1980, the respondent filed a complaint with the Court of First Instance of Rizal at Quezon City against the petitioners, alleging that the latter executed a deed of extrajudicial settlement of the estate of the late Chua Bing Guan, dividing the deceased's properties between them in preterition of the respondent who is also

a son of the deceased. The complaint further alleged that contrary to what is stated in the deed which is sought to be annulled, the deceased left a will which was probated during his lifetime in the Court of First Instance of Batangas, Balayan Branch wherein he acknowledged the respondent as a son. The respondent therefore prayed that the questioned deed be annulled and that the estate of the deceased Chua Bing Guan be partitioned among the three of them - the petitioners and respondent.

In their motion to dismiss, the petitioners alleged that the respondent's complaint should be dismissed on the following grounds: 1) the latter has no cause of action; 2) the action is barred by a prior judgment, or at least, by conclusiveness of judgment; and 3) the action is barred by the statute of limitations. According to the petitioners, the complaint instituted by the respondent which is based on an alleged determination of his being a son of Chua Bing Guan has already been resolved in a former case instituted by the private respondent in Special Proceeding No. Q-12592 and therefore the latter constitutes a bar to the filing of the later complaint under the doctrine of res judicata. The petitioners also argued that the claim of the respondent of his being a son of the deceased on the basis of the alleged will executed by the latter had already been brushed aside by the court in the same Special Proceedings wherein the will was construed as being merely simulated to accommodate respondent's bid to qualify as an applicant for Filipino citizenship. Petitioners further alleged that the reason for their not filing any opposition to the probate of the will was that they were totally unaware of the case because the probate proceedings were filed in the Balayan court despite the express allegation in the petition that the testator was a resident of Manila. They stated that in an effort to hide the probate proceedings from them, the respondent alleged in his own petition in Special Proceeding No. Q-12592 that the deceased Chua Bing Guan died intestate and did not leave any will.

Significantly, while the complaint was filed with the respondent court on July 14, 1980, the petitioners were not served with summons until February 25, 1981.

After both parties had submitted their respective pleadings, the respondent court denied the petitioners' motion to dismiss and their motion for reconsideration. After the Court of Appeals likewise dismissed their appeal, they filed this instant petition.

In affirming the order of the respondent court, the appellate court ruled that the petitioners have "other remedies such as presenting evidence in the motion to dismiss and if necessary in the trial, and in case of adverse decision." If res judicata does not apply, perhaps, the ruling of the respondent court may be adjudged procedurally sound; however, the doctrine applies to the case at bar.

To allow the parties to go on with the trial on the merits would not only subject the petitioners to the expense and ordeal of litigation which might take them another ten years, only to prove a point already decided in Special Proceeding No. Q-12592, but more importantly, such would violate the doctrine of res judicata which is expressly provided for in Section 49, Rule 39 of the Rules of Court.

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).

In the complaint instituted by the respondent himself in Special Proceeding No. Q-12592, both the petitioners and the respondent were parties in their capacity as alleged heirs of the deceased Chua Bing Guan. In both the earlier and the later cases, the respondent asserted his right over the property of the deceased as an alleged son of the latter. Such right was precisely made the very basis for instituting both actions. As stated earlier, Special

Proceeding No. Q-12592 was terminated with the finding that respondent was not a son of the deceased Chua Bing Guan. The present complaint, therefore, which seeks to annul anew the extra-judicial settlement executed by the petitioners on the basis of the respondent's allegation that he is a son of the deceased clearly violates the doctrine of res judicata. Parties should not be permitted to litigate the same issue more than once and when a right or fact has been judicially tried and determined by a court of competent jurisdiction, so long as it remains unreversed, it should be conclusive upon the parties and those in privity with them in law or estate. (See *Vda. de Sta. Romana v. Phil. Commercial and Industrial Bank*, 118 SCRA 337).

We, therefore, hold that the respondent's complaint should not be allowed for the same is clearly barred by a valid prior judgment. Thus, it was error for the respondent court not to dismiss the respondent's complaint when the ground for such motion was indubitable. (See also *Vda. de Bacang v. Court of Appeals*, 125 SCRA 140-141)

It is also noteworthy to mention that the will which was allegedly executed by the deceased Chua Bing Guan and probated by the Balayan court is even now being contested by the petitioners in that same court in Civil Case No. 833. Without prejudice to the outcome of said action, we rule that the complaint commenced by the respondent in Civil Case No. 30340 should be dismissed.

IN VIEW OF THE FOREGOING, the petition is hereby GRANTED. The orders of the lower court dated July 6, 1981 and December 7, 1981 and the orders of the respondent Court of Appeals (now Intermediate Appellate Court) dated June 18, 1982 and August 24, 1982 are REVERSED and SET ASIDE. The Regional Trial Court to whom the case is assigned is directed to DISMISS Civil Case No. 30340.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana, Relova, and De La Fuente, JJ., concur.

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