

**ANGELO ANDRES ET AL., PLAINTIFFS AND APPELLEES, VS.
VALERIANA PIMENTEL, DEFENDANT AND APPELLANT.***G.R. No. 6818. February 10, 1912*

Ponente: TRENT, J.

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In this case the plaintiffs, who are the children and grandchildren of Vicente Andres Cam and Florentina Juan, both now deceased, commenced this action in the Court of First Instance of the Province of Ilocos Norte, for the purpose of obtaining possession and determining the title to five parcels of land and for the value of the products of said land. Judgment having been rendered by the court below, Honorable Dionisio Chanco presiding, denying the plaintiffs' right to recover for the value of the products, but declaring that they are the owners and entitled to the possession of said lands, both parties appealed and presented separate bills of exceptions; but the plaintiffs now ask that the judgment appealed from be affirmed in all of its parts, so it will not be necessary to examine into the question of the plaintiffs' right to a judgment for the products of the land.

The plaintiffs base their title to the lands in dispute upon a purchase and sale made by their father, Vicente Andres Cam, on the 18th day of August, 1886, from Loreano Pimentel, father of the defendant Valeriana Pimentel, while, on the other hand, the defendant claims to have inherited these lands from her mother, Dona Ines Guerrero. Both parties presented oral and documentary evidence for the purpose of establishing their respective claims.

One of the defenses interposed by the defendant is *res judicata*, based upon a judgment of the Court of First Instance of Ilocos Norte, wherein Angelo Andres et al. were plaintiffs and Domingo Caluya was defendant. The question here presented is whether or not the judgment in that case is an adjudication of the subject-matter in the case at bar, so that it can not be retried.

The plaintiffs in the former case were Angelo Andres, Cenona Andres, Eduvigis Andres, Venancio Andres, Alejandro Andres, Maria Reyes, Sotera Fondevilla, and Maria Andres; and the defendant was Domingo Caluya.

The plaintiffs in the present case are Angelo Andres, Cenona Andres, Eduvigis Andres, Venancio Andres, Alejandro Andres, Maria Andres, Juan Andre's, Higino Andres, Margarita Andres, Maria Andres, and Pedro Andres; and the defendant is Valeriana Pimentel.

The subject-matters of the actions are exactly the same in both cases—the lands in question. The same documentary material evidence was presented by both parties in both cases, but the record does not disclose whether the oral testimony was the same or not. The plaintiffs in both cases as appears from the evidence thus submitted claim ownership of the lands in dispute by inheritance from their deceased parents, Vicente Andres Cam and Florentina Juan, and that their deceased father acquired these lands by purchase from Loreano Pimentel, father of the defendant in the present case. While on the other hand, the defendant in the former case alleged that said lands belonged to his mother-in-law, the defendant in this case, and she, in the present case, claims ownership of these lands by inheritance from her deceased mother, Ines Guerrero. The judgment in the former case is the following:

"LAOAG, August 2, 1905.

"The plaintiffs claim the land described in the complaint, alleging that the same belonged to their deceased parents.

"The defendant opposes this claim on the ground that the land in question belongs to his mother-in-law, Valeriana Pimentel.

"The plaintiffs and the defendant respectively presented documents to show their alleged title to the lands. It appears from the documents presented by plaintiffs that the ownership claimed by them is derived from an assignment or cession made by Laureano Pimentel in favor of their parents in payment of a debt, and the documents presented by defendant show that the lands were inherited by Valeriana Pimentel from her mother, Ines Guerrero.

"It is necessary to first establish the title of the assignor, Laureano Pimentel, which is rebutted by the allegation and proof of ownership on the part of Valeriana Pimentel, in order that the assignment may not be considered prejudicial to the latter's right, she not having been a party to the said assignment or cession. The documents presented by the plaintiffs may be sufficient as between them and Laureano Pimentel and his heirs, but they are not binding upon a third person who asserts a different right or title derived from that of the said Laureano.

"The title in the assignor Laureano Pimentel not having been duly established in this case, the allegations of the complaint are not sufficient, and the court hereby absolves the defendant therefrom, with the costs against the plaintiffs.

"It is so ordered."

Counsel for the defendant, in discussing the question of res judicata, confine themselves to one point. This point is stated by them in the following language:

"Both the preponderance of authority in this country, and the weight of sound legal reason sustain the doctrine that the former judgment, if admissible under the general issue, is just as conclusive when so presented as if it had been specifically set up by a plea at bar."

Let it be admitted that this is the law upon this point. Yet the question of res judicata is not, by any means, disposed of, as it will be seen that the parties of record in both actions are not exactly the same, neither are the defendants the same. But it does appear that exactly the same material question was submitted to the court in both cases; that is, the ownership of the land. While it is difficult to determine with absolute certainty the precise point upon which the first judgment was based, let us say, for the purpose of determining the question of res judicata with reference to the defendant Valeriana Pimentel, that the real question presented and determined in the former case was whether or not Laureano Pimentel was the owner of these lands at the time he ceded them to the father of the plaintiffs, and that this question was decided in the negative. Valeriana Pimentel was not a party of record in that suit. Her son-in-law was the only defendant. The record fails to disclose whether or not she was present during the trial or took any part whatever in the same. The statement "which is rebutted by the allegations and proof of ownership on the part of Valeriana Pimentel" might indicate that she was present and furnished the proof, but this fact is not by any means clear.

In the case of Tanguinlay vs. Quiros (10 Phil. Rep., 360), this court said:

"The law of res judicata is well settled in the United States and is laid down in a series of decisions of the Supreme Court to the effect that as between the parties to the first judgment and their privies it operates as a bar to a second action upon the same claim, not only as to issues actually in litigation but also as to all matters which might have been litigated therein, whereas in an action between them upon a different cause it is a bar only as to matters actually litigated. (Cromwell vs. County of Sac, 94 U. S., 351; Werlein vs. New Orleans,

177 U. S., 390; United States vs. California Co., 192 U. S., 355; Fayerweather vs. Hitch, 195 U. S., 276, 299; N. P. Railway Co. vs. Slaght, 205 U.S., 122.)"

The phrase "between the parties to the first judgment and their privies" is not defined in that case, so we must look to other authorities for the purpose of determining the meaning of the words "parties and their privies" when used in this connection.

The general rule is thus stated in 24 Am. & Eng. Ency. Law (2ded.), 724:

"The persons between whom the judgment or decree in a suit is conclusive in a subsequent suit are the parties to the prior suit and their privies, and as a general rule it is conclusive only between them. The mere fact that a person had an interest in the subject-matter of the prior suit will not render the judgment or decree therein conclusive upon him." (Citing in support of this rule a long list of cases.)

It is also stated in the same volume, page 827, that:

"Judgments in actions or suits in personam are inter partes and binding and conclusive only upon the parties of record, and, in some instances, persons who actually participate in the litigation and their privies.

"It is a rule that estoppels must be mutual; and therefore a party will not be concluded, against his contention, by a former judgment, unless he could have used it as a protection, or as the foundation of a claim had the judgment been the other way; and conversely no person can claim the benefit of a judgment as an estoppel upon "his adversary unless he would have been prejudiced by a contrary decision of the case." (23 Cyc, 1238, and a large number of cases cited thereunder.)

Valeriana Pimentel, as we have said, the defendant in the present case, was not a defendant of record in the former case. This being true, would she have been bound by the judgment of the court had it been against the contention of her son-in-law, Domingo Caluya, the defendant in that action? In other words, if the court had declared in the former case that the lands in question were the property of those plaintiffs, would Valeriana Pimentel have been bound by that judgment? If so, then her defense of res judicata is well founded; but if not, then she cannot interpose this defense against the present plaintiffs. As she was not a party of record in that case, and as the record in the present case fails to show that she was present and took part in the former trial, we think that that judgment, had it been in favor of the plaintiffs, would not be binding upon her. Consequently, the judgment in that case is not res judicata between the parties in the present case. The plaintiffs appealed from the judgment in the former case, but said appeal was dismissed by this court for failure to prosecute. We do not know why the plaintiffs failed to prosecute their appeal unless it be said that they knew that a judgment against the defendant Domingo Caluya could not prejudice the rights of Valeriana Pimentel, and they therefore decided to abandon that case and institute new proceedings against the real party, the defendant. If the record had shown that Valeriana Pimentel had full notice of the pendency of the former suit and did in fact advise with the defendant as to the plan of the defense, the question might have been different. Again, the former judgment could not be res judicata against those plaintiffs in the present case who were not parties to the former.

The other questions raised relate to the probative force of the oral and documentary evidence presented by the parties.

Counsel for the plaintiffs, on page 6 of his printed brief, says:

"We make this assertion with such certainty and confidence that we hereby declare that our clients are agreeable and will not object to the honorable court declaring the defendant owner of the lands to which the witnesses of the latter refer, and which are described in Exhibits AA and BB."

If the lands in dispute are those described in defendant's documents, then said lands must be the property of the

defendant, as the plaintiffs lay no claim to the lands described in those documents. While on the other hand, if the lands described in the complaint and in the documents of the plaintiffs are separate and distinct from those described in the defendant's documents then said lands must necessarily be the property of the plaintiffs, as the defendant only claims title to the lands described in her documents. It is necessary to examine the proof in order to determine these questions.

Plaintiffs assert title to five parcels of land, three within the municipality of Dingras and two within the municipality of Laoag. These lands, according to the amended complaint, are described as follows:

"(a) The first is located in the sitio of Santa Regina in the municipality of Dingras, Province of Ilocos Norte, P. I., having a perimeter of 1,426 meters; bounded on the north by a part of the land which is the subject of this litigation and described under letter (6), and Dona Mariana Pimentel ; on the east by Mariana Pimentel; on the south by a river and Dona Vicenta Luz; and on the west by said Dona Vicenta Luz.

"(b) The second is situated in the sitio of Caniogan vel Ave Maria of the said municipality, having a perimeter of 762.30 meters; bounded on the north by a carrizal; on the east by Juan Alvano Pimentel; on the south by the land above described; and on the west by Vicenta Luz and heirs of D. Jose M.a Albornos.

"(c) The third is situated in the sitio of Caniogan of the said municipality of Dingras, having a perimeter of 1,269 meters; bounded on the north by a carrizal; on the east by Antonio Bustamante, formerly Mariana Pimentel; on the south by Jose Bustamante and Valeriana Pimentel; and on the west by Mariana Pimentel.

"(d) The fourth is situated in the sitio of Doro, municipality of Laoag, Province of Ilocos Norte, P. L., having a perimeter of 429.30 meters; bounded on the north by Nemesio Segundo, formerly the woman called Guillerma; on the east by Jose Bustamante, formerly Francisco Bustamante, on the south by the Palangoy Estero, and on the west by Antonio Bustamante, formerly Francisco Bustamante.

"(e) The fifth is located in the said sitio of Doro, having a perimeter of 165.20 meters; bounded on the north and west by Antonio Bustamante, formerly Francisco Bustamante; on the east by the heirs of Eduardo Fontanilla, formerly Leocadio Guerrero; on the south by Pedro Hernando."

The lands in plaintiffs' Exhibit Q, which they claim that their father purchased from Laureano Pimentel, are located and described as follows:

"(1) Situated in the sitio of Santa Regina, bounded on the north and east by lands belonging to the heirs of Don German Pimentel; on the south and west by lands of Don Sabas Luz; with a perimeter of 719 brazas.

" (2) Situated in the sitio of Caniogan, a field and garden, bounded on the north by virgin, unkept lands; (no eastern boundary given) ; on the south by lands belonging to the heirs of Don German Pimentel; on the west by lands of Don Norberto Garces; with a perimeter of 612 brazas.

"(3) Situated in the sitio of Caniogan vel Ave Maria, bounded on the north by virgin lands; on the east by lands of Juan Alvano Pimentel; on the south by lands belonging to the heirs of Don German Pimentel; and on the west by lands of Don Sabas Luz; with a perimeter of 554 brazas.

"(4) Situated in the sitio of Doro, bounded on the north by lands of a woman called Guillerma, on the east and west by lands of Don Francisco Bustamante, and on the south by an estero, with a perimeter of 340 varas.

"(5) Situated in the sitio of Doro, bounded on the north and west by lands of Francisco Bustamante, on the east by lands of Leocadio Guerrero, and on the south by lands of Pedro Hernando; with a perimeter of 171 varas."

The lands described in plaintiffs' Exhibit R, which is a possessory title duly recorded, are as follows:

"(1) Situated in the sitio of Santa Regina, having a perimeter of 719 brazas; bounded on the north and east by land belonging to the heirs of the deceased Don German Pimentel ; on the south and west by lands of Vicenta

Luz.

"(2) Situated in the sitio of Caniogan, composed of a field and garden, having a perimeter of 612 brazas; bounded on the north by uncultivated lands, on the east and west by lands of Maria Pimentel; on the south by lands belonging to the heirs of the deceased German Pimentel.

"(3) Situated in the sitio of Caniogan vel Ave Maria, having a perimeter of 354 brazas; bounded on the north by uncultivated lands; on the east by lands of Apolonia Alvano, on the south by lands belonging to the heirs of the deceased Don German Pimentel, on the west by lands of Dona Vicenta Luz."

The lands in defendant's Exhibit AA are described as follows:

"(1) Situated in the sitio of Sta. Maria, having a perimeter of 1,459.5 varas; bounded on the north and east by lands of Don Jose Maria Albornos, on the west by lands of Don Juan Alvano Pimentel, and on the south by lands of Don Francisco Bustamante and the said Don Jose Maria Albornos.

"(2) Situated in the sitio of San Agustin, having a perimeter of 1,600 varas; bounded on the north and east by Dona Simona Pimentel, on the south with land of Don Sabas Luz, on the west by lands of Dona Felipa Pimentel, and on the east by lands of the said Don Jose Maria Albornos.

"(3) Situated in the sitio of Santa Regina, having a perimeter of 1,500 varas; bounded on the north and west by lands of the said Dona Felipa Pimentel, on the east by lands of the said Don Francisco Bustamante, and on the south by lands of Don Mariano Gonzales.

"(4) Situated in the sitio of San Jose, having a perimeter of 1,600 varas; bounded on the north and east by lands of the said Don Jose Maria Albornos, on the west by lands of the said Don Francisco Bustamante, and on the south with lands of the said Don Sabas Luz."

The lands described in defendant's Exhibit BB are as follows:

"(1) Situated in the sitio of Doro, having an area of 27 ares and 87 centares; bounded on the north by the garden of Bernabe Segundo, on the south by a footpath, on the east by land of the minor Don Jose Bustamante, and on the west by lands of Dona Manuela Bustamante and the said minor Don Jose Bustamante.

"(2) Situated in the sitio of Doro, having an area of 10 ares and 7 centares; bounded on the north with the land of Dona Valeriana Pimentel y Guerrero, on the south by land of Don Pedro Hernando, on the east by land of Don Cosme Asuncion, and on the west by land of Don Francisco Bustamante."

It will be noted that there are only three parcels of land included in the possessory information filed by the plaintiffs. These three parcels are situated in the municipality of Dingras. The other two parcels claimed by the plaintiffs are in the municipality of Laoag. These lands being in different municipalities may be the reason why they were not all included in the same petition for a possessory title.

The description of the lands in question given by the plaintiffs in the case instituted in 1904 is exactly the same as that given in the present case. The location of these lands as given in these complaints is exactly the same as that given in Exhibit Q, the document of transfer from Loreano Pimentel to the father of the plaintiffs, but the descriptions are not exactly the same, neither are the perimeters. The perimeters in the first are given in meters, while in Exhibit Q they are given in brazas. The perimeters in brazas reduced to meters show a difference which is not so very great. The names of the landowners joining these parcels as given in the complaint are not exactly the same as those stated in Exhibit Q. This discrepancy is necessarily due to changes in ownership of such lands since the year 1886. Considering the oral testimony, together with the description of the lands given in the complaint, in Exhibit Q, and in Exhibit R, it is established by a preponderance of evidence that the lands referred to in these three documents are the same.

As far as the parcels in Dingras are concerned, it is impossible to reconcile the descriptions given in defendant's Exhibit AA with any of the descriptions. There are four parcels described in this Exhibit AA, one in Santa Maria, one in San Agustin, one in Santa Regina, and one in San Jose. The plaintiffs claim no lands in either Santa Maria, San Agustin, or San Jose. While some of the boundaries of the land in Doro given in Exhibit BB coincide with the description of the lands claimed by the plaintiffs in that same sitio, nevertheless the record clearly establishes the fact that the plaintiffs and their parents were in possession of all the lands in question for more than ten years, or from the time the same were transferred to them in 1886 until they were finally ousted about the year 1899 by the son-in-law of the defendant. This son-in-law illegally took possession of these lands in that year in violation of the judgment of the Court of First Instance in a case wherein Florentina Juan was plaintiff and Caluya was defendant. In this judgment, which was rendered August 5, 1895, the court directed Caluya to abstain from molesting Florentina Juan in the possession of these lands.

We think, after a close examination of the entire record, that the judgment appealed from should be affirmed, with costs against the appellant. So ordered.

Arellano, C. J., Torres, Mapa, Johnson, Carson, and Moreland, JJ., concur.

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