

SPS. LUIS ILASCO, JR., AND ROSARIO DE LA CRUZ, AND SPS. EUSEBIO MOYA AND ESTELITA RODILLO, PETITIONERS, VS. THE HON. COURT OF APPEALS AND MARIA CLARA RODILLO, RESPONDENTS.

G.R. No. 88983. December 14, 1993

Ponente: QUIASON, J.

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QUIASON, J.:

This is a petition for review on certiorari under Rule 45 of the Revised Rules of Court, to annul the decision of the Court of Appeals (CA-G.R. CV. No. 09842), which set aside the order of dismissal on the ground of *res judicata* of Civil Case No. 6779-M of the Regional Trial Court, Branch XVI, Malolos Bulacan.

Sometime in 1980, respondent Rodillo commenced with the Court of First Instance of Valenzuela, Bulacan, Civil Case No. 1120-V-80 (entitled "Maria Clara Rodillo versus Spouses Luis Ilasco, Jr. and Rosario dela Cruz") to declare null and void the donation given to petitioners Luis Ilasco and Rosario dela Cruz by Cipriano Rodillo and Victoria dela Cruz and the reconveyance of the one-half portion of the same to respondent Rodillo.

In her complaint, respondent Rodillo alleged: (a) Her widowed grandmother, Asuncion Laurel, who died on June 23, 1943, had two sons, Nicolas and Cipriano Rodillo. Nicolas predeceased Asuncion, having died on December 25, 1942. 'Nicolas' sole heir was respondent Rodillo, his daughter; (b) Upon the death of Asuncion, her heirs, Cipriano and respondent Rodillo succeeded to the entire estate as co-heirs, the latter inheriting by right of representation; (c) Inasmuch as respondent Rodillo was a minor at the time of the death of Asuncion, Cipriano acted as her trustee who administered her interests in the estate; (d) Cipriano executed a document entitled "Paglilipat sa Sarili ng Pag-aari ng Namatay," falsely stating therein that he was the only heir of Asuncion and adjudicating to himself the entire estate left by the deceased; and (e) On June 16, 1978, Cipriano and his wife, Victoria dela Cruz, donated the other half portion of the land to petitioner spouses, Luis Ilasco and Rosario dela Cruz.

Respondent Rodillo prayed that the document entitled "Paglilipat sa Sarili ng Pag-aari ng Namatay" and the donation made in favor of petitioner Luis Ilasco and Rosario dela Cruz be declared null and void; and that the donated property be reconveyed to her.

Finding difficulty in serving the summonses on petitioners Ilasco and dela Cruz, who were residents of the United States, respondent Rodillo filed a Motion for Leave to Archive Case dated August 6, 1980. The Court of First Instance of Valenzuela, Bulacan, issued an order dated August 8, 1980 approving the motion.

On October 2, 1981, respondent Rodillo filed an Ex-Parte Motion to Revive Case which was granted by the trial court on October 13, 1981. As no further action was taken by respondent Maria Clara Rodillo, petitioners Ilasco and dela Cruz filed a Motion to Dismiss and for Cancellation of Notice of *Lis Pendens*. The motion was granted in an order dated March 27, 1982, which reads:

“Acting on the ‘Motion to Dismiss and for, Cancellation of Notices of *Lis Pendens*’ filed by Atty. Juan B.

Bañez, Jr., counsel for the defendants, and it appearing that despite the order of revival granted by the Court in its Order of October 13, 1981, plaintiff has not done anything in this case and as a matter of fact, the lawyer who filed the motion for revival, Atty. Eli Natividad, withdrew as counsel for the plaintiff with the conformity of the plaintiff, for lack of interest, this case is hereby DISMISSED and the notices of lis pendens on defendants' Transfer Certificate of Title Nos. T-30-384(M) and T-30-386(M) arising from this case are hereby ordered CANCELLED" (Rollo, p. 48).

Respondent Rodillo filed a Motion for Reconsideration, which was denied on April 29, 1982.

No appeal was taken from the Orders dated March 27, 1982 and April 29, 1982. Instead, on March 9, 1983, respondent Rodillo commenced in the Regional Trial Court, Bulacan, Civil Case No. 6779-M (entitled: 'Maria Clara Rodillo versus Spouses Luis Ilasco, Jr. and Rosario dela Cruz and Spouses Eusebio Mutya and Estelita Rodillo).

Petitioners Ilasco and dela Cruz moved for the dismissal of the case against them on the ground of res judicata. In granting the motion, the trial court reasoned out:

"x x x It was shown that Civil Case No. 1120-V-80 was filed at the then Court of First Instance of Bulacan (Valenzuela) by plaintiff Maria Clara Rodillo against movants in this instant case. Eusebio Mutya and Estelita Rodillo were however added as defendants in this instant case. Although the civil case filed at Valenzuela was for 'Action to Declare the Donation Null and Void' and this instant case is for 'Annulment of Document and Reconveyance,' the prayers in both cases are identical: to declare as nullity (sic) the donation executed by Sps. Cipriano Rodillo and Victoria dela Cruz in favor of the movants and the reconveyance of one-half portion of the same to the plaintiff. The Civil Case filed with the Valenzuela Court was ordered terminated in the order of Judge Eduardo Caguioa dated March 27, 1982 and the order of dismissal is now final" (Rollo, p. 27).

The Court of Appeals reversed the decision of the trial court and reinstated the complaint, holding that while all the elements of res judicata were present such principle was inapplicable to the case, considering the "environmental circumstances" thereof. By "environmental circumstances," the Court of Appeals meant the utter dependence of respondent Rodillo on her counsel and the failure to prosecute the case due to the failure to summon the defendants, who were residing abroad.

In pertinent part, the decision of the Court of Appeals states:

x x x x x x x x

"Res judicata is to be disregarded if its application would involve the sacrifice of justice to technicality (Republic, et al. v. Judge de Los Angeles, G.R. No. 30240, 23 March 88). While procedurally speaking since the dismissal was unqualified, it had the effect of an adjudication on the merits, given the equities of the case it would be more in keeping with substantial justice if the controversy between the parties were resolved on the merits rather than on a procedural technicality in the light of the express mandate of the rules that they be liberally construed in order to promote their object and to assist the parties in obtaining just, speedy and inexpensive determination of every action and proceeding. (Olivares v. Gonzales, et al., G.R. No. 34500, 18 March 88).

The dismissal of actions is based on sound judicial discretion and such discretion must be exercised wisely and prudently with a view to substantial justice (supra). While the first case was pending for almost two years, the inability to prosecute was not really due to an unwillingness of the plaintiff to proceed with the case but the difficulty in serving defendants with summons for being non-residents. While this could not have been a legal obstacle to its prosecution given the nature of the case, as aptly stated in Tandoc v. Tensuan, 93 SCRA 880, it was not fair to visit this error of counsel on the poor petitioner-litigant (who depended only on her counsel's advice and judgment) and inflict upon her just suit the capital penalty of dismissal. Rule 17, Section 3 permits

such dismissal which has 'the effect of an adjudication on the merits' only if plaintiff fails to prosecute (her) action for an unreasonable length of time' and under the environmental circumstances of this case, as duly explained by counsel, petitioner could not be adjudged guilty of failure to prosecute for an unreasonable length of time (p. 883, supra)" (Rollo, p. 29)

Petitioners assail the decision of the Court of Appeals, assigning the following errors:

- 1) The respondent court erred in not applying the doctrine of res judicata despite its own finding that all the elements of said doctrine are present in the instant case;
- 2) The respondent court erred in denying the Motion for Reconsideration without stating the legal basis therefore in violation of Sec. 14, Art. VIII of the 1986 Constitution.

We agree with petitioners.

Compresent in the case at bench are the elements of res judicata, which are the following:

1. There must be a final judgment or order;
2. The court rendering the judgment must have jurisdiction over the subject matter;
3. The former judgment is a judgment on the merits;
4. There is between the first and second actions identity of the parties, subject matter and of causes of action (Ipekjdian Merchandising Co. Inc. v. Court of Tax Appeals, 9 SCRA 72 [1963]; Abes v. Rodil, 17 SCRA 822 [1966]).

The judgment in Civil Case No. 1120-V-80 is a final judgment, since plaintiff failed to appeal therefrom within the reglementary period.

The trial court which rendered the judgment has jurisdiction over the subject matter.

The dismissal of Civil Case No. 1120-V-80 on the ground of lack of interest or failure to prosecute on the part of the plaintiff has the effect of judgment on the merits (Revised Rules of Court, Rule 17, Sec. 3). It has the force of res judicata against the revival of substantially the same action originally filed in another court (Insular Veneer, Inc. v. Plan, 73 SCRA 1 [1976]; De La Cruz v. Paras, 69 SCRA 556 [1976]).

The trial court and the Court of Appeals agreed that the prayers in both cases are identical. There was no showing that the additional defendants could not have been impleaded in the first case or that their interests in the subject of the case were derived from parties other than the original defendants. There was, therefore, only a change in the form and name of the action and nothing less.

A party, by varying the form of the action or by bringing forward in a second action additional parties or arguments, cannot escape the effects of the principle of res judicata when the facts remain the same at least where such new parties or matter could have been impleaded or pleaded in the prior action (Sangalang v. Caparas, 151 SCRA 53 [1987]; Filinvest Credit Corporation v. Intermediate Appellate Court, 207 SCRA 59 [1992]).

The Court of Appeals fell into error because of its wrong appreciation of the issue before it. The issue was whether the Order dated March 27, 1982 of the Court of First Instance of Valenzuela, Bulacan in Civil Case No. 1120-V-80 operated as res judicata to Civil Case No. 6779-M. What the Court of Appeals resolved was the question of whether the trial court erred in dismissing Civil Case No. 1120-V-80 without stating that the dismissal was "without prejudice." Invoking the rule that justice should not be sacrificed to technicality, the Court of Appeals set aside the Order of the dismissal dated March 27, 1982 and the Order dated April 27, 1982, denying the motion for reconsideration in Civil Case No. 1120-V-80.

The Court of Appeals would have been correct if the plaintiff (private respondent herein) in Civil Case No. 1120-V-80 had timely appealed the Order of dismissal dated March 27, 1982 and raised the issue that the trial court had gravely abused its discretion in dismissing the case with prejudice in view of the "environmental circumstances" of the case.

Private respondent has only herself to blame for her present predicament. Instead of appealing from the order of dismissal in Civil Case No. 1120-V-80, she filed another case (Civil Case No. 6779-M) almost one year later.

Before procedural rules can be relaxed to give way to substantive justice, it is implicit that such liberality be applied in a proper case.

Private respondent is bound by the negligence and mistakes in procedural matters of her counsel (B.R. Sebastian Enterprises, Inc. v. Court of Appeals, 206 SCRA 28 [1992]; Mobil Oil Philippines, Inc. v. Court of First Instance, 208 SCRA 523 [1992]).

It is a principle of public policy that at the risk of occasional errors, judgments of court should become final at some definite time fixed by law. The very object of which the courts were constituted was to put an end to controversies (Vda. de Kilayko v. Tengco, 207 SCRA 600 [1992]).

WHEREFORE, the decision of the Court of Appeals appealed from is SET ASIDE. A new judgment is rendered REINSTATING and AFFIRMING the Orders dated March 27, 1982 and April 29, 1982 of the Regional Trial Court, Branch XVI, Malolos, Bulacan in Civil Case No. 6779-M.

SO ORDERED.

Cruz, (Chairman), Davide, Jr. and Bellosillo, JJ., concur.

* Among the defendants in Civil Case No. 6779-M, RTC, Br. XVI, Malolos, Bulacan was Eusebio Mutya, not Eusebio Moya. The title of CA-G.R. CV No. 09842 also mentioned Eusebio Mutya, not Eusebio Moya, as one of the appellants.

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