

## **FILIPINAS INVESTMENT AND FINANCE CORPORATION, PETITIONER, VS. INTERMEDIATE APPELLATE COURT AND FELIMON CUEVAS, RESPONDENTS.**

*G.R. Nos. 66059-60. December 04, 1989*

Ponente: MEDIALDEA, J.

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### **MEDIALDEA, J.:**

This is a petition for review on certiorari of the decision of the Intermediate Appellate Court (now Court of Appeals) dated October 28, 1983 and its resolution dated December 29, 1983 in AC-G.R. CV No. 58626-27 entitled, “Filipinas Investment and Finance Corporation v. Felimon Cuevas.”

The antecedent facts in the instant case are as follows:

On November 21, 1963, respondent Felimon Cuevas purchased from Ace Consolidated Inc. one unit Nissan truck and executed a promissory note in favor of the corporation for the balance of the installment price in the amount of P38,135.26. To secure the payment of said promissory note, respondent Cuevas executed a chattel mortgage on the said Nissan truck. On November 22, 1963, respondent Cuevas purchased from the Ace Consolidated, Inc. one unit Datsun Bluebird car and executed a promissory note for P12,540.00, which is the balance of the purchase price. As security for the payment of said amount, a chattel mortgage was executed by respondent Cuevas on the Datsun Bluebird car. On December 9, 1963, Cuevas again purchased from Ace Consolidated, Inc. one unit Datsun Bluebird car, and executed a promissory note for P12,540.00, which is the balance of the purchase price. To secure the payment thereof, Cuevas executed a chattel mortgage on the said Datsun Bluebird car. Each of these promissory notes contains a stipulation that upon failure of the debtor to pay any of the monthly installments, the whole sum remaining unpaid will immediately become due and payable at the option of the holder of the note (pp. 8--18, Records). This stipulation is likewise provided in the contracts of chattel mortgage with the condition that the mortgages may be foreclosed by the mortgagee upon failure to pay any of the installments.

All of these promissory notes and chattel mortgages were subsequently assigned by Ace Consolidated, Incorporated to Filipinas Investment and Finance Corporation, petitioner herein.

On July 1, 1965, Cuevas filed a complaint with preliminary injunction with the then Court of First Instance of Manila docketed as Civil Case No. 61514 to enjoin the petitioner corporation from foreclosing the chattel mortgage on the two Datsun cars purchased on installment by the respondent from Ace Consolidated, Inc., petitioner's predecessor-in-interest, and to declare the assignment made by Ace Consolidated, Inc., to Filipinas Investment and Finance Corporation null and void. The petitioner corporation filed a counterclaim seeking the possession of the two Datsun cars for the purpose of extrajudicial foreclosure of the chattel mortgage or, in the alternative, the payment of the unpaid installments and the remaining balance on the promissory notes.

Meanwhile, petitioner corporation filed a complaint with the same court docketed as Civil Case No. 61651 seeking to recover from Cuevas the sum of unpaid installments on one Nissan truck purchased by the latter from Ace Consolidated on installment basis.

Civil Cases Nos. 61514 and 61651 were consolidated and jointly tried in the trial court. Petitioner corporation applied for the seizure of the two Datsun Bluebird cars from respondent Cuevas. The court granted the application and the two cars were seized by the sheriff from private respondent. Thereafter, Cuevas filed a motion for the return of the said vehicles, and for this purpose, he gave a counterbond in the amount of P20,000. The court approved the bond and the vehicles were returned to respondent Cuevas on October 5, 1965. After the trial, the Court rendered a judgment on October 21, 1966, which was modified in an order dated December 29, 1966. The dispositive portion of the amended decision is quoted as follows:

"IN VIEW OF THE FOREGOING, in Civil Case No. 61514, judgment is rendered confirming the possession of the Filipinas Investment and Finance Corporation to the Datsun Bluebird car which had been seized by virtue of the writ of replevin issued by this Court and declaring the Filipinas Investment and Finance Corporation entitled to the possession of the other Datsun Bluebird car in order that Filipinas Investment and Finance Corporation may be able to proceed with the extrajudicial foreclosure of the mortgages on the two Datsun Bluebird cars. Judgment is hereby rendered in favor of Filipinas Investment and Finance Corporation and against Felimon Cuevas and Citadel Insurance & Surety Co., Inc., jointly and severally for the return of the above-described Datsun Bluebird car. In the event that the same cannot be delivered, judgment is hereby rendered against them jointly and severally, and in favor of Filipinas Investment and Finance Corporation for P7,577.10 with interest at the rate of 12% per annum from December 1, 1965 until paid. In the event that Filipinas Investment and Finance Corporation cannot obtain possession of the other Datsun Bluebird car, judgment is rendered in favor of Filipinas Investment and Finance Corporation and against Felimon Cuevas for P7,729.44 with interest at the rate of 12% per annum from December 1, 1965 until paid, and the amount deposited by Felimon Cuevas with the Court shall be applied in partial payment of this judgment. Otherwise, should Filipinas Investment and Finance Corporation be able to take possession of the said Datsun Blue[b]ird car, the amount deposited by the plaintiff should be returned. Without pronouncement as to costs.

"In Civil Case No. 61651, judgment is rendered in favor of the plaintiff and against the defendant for P22,041.99, with interest at the rate of 12% per annum from July 10, 1965 until paid, and the costs of the suit.

"SO ORDERED." (pp. 60-61, Records)

Not satisfied with the decision of the trial court, respondent Cuevas appealed to the Intermediate Appellate Court (now Court of Appeals). On July 23, 1969, a resolution was adopted by the Intermediate Appellate Court denying the appeal (p. 88, Records). An entry of judgment was issued, stating that on August 4, 1969, the judgment had become final and executory.

On September 18, 1967, petitioner corporation filed a motion for execution of the aforementioned judgment. A writ of execution was therefore issued by the trial court on December 26, 1969 directing respondent Cuevas and Citadel Insurance & Surety Co. to return the two Datsun Bluebird cars to petitioner corporation or, if the same cannot be delivered, to pay P7,577.10 and P7,729.44 with interest. Thus, respondent Cuevas delivered on February 17, 1970 the two Datsun cars in question to the Sheriff of Manila. However, on February 18, 1970, petitioner corporation filed with the trial court a manifestation and motion to enforce the execution of the judgment by proceeding on the re-delivery bond posted by respondent Cuevas and/or to execute on the judgment for value. Due to petitioner's suggestions, the deputy sheriff made a supplemental return to the writ of execution stating that the petitioner corporation accepted the two Datsun cars not as a satisfaction of the writ, but to levy the same on execution under the writ of execution in Civil Case No. 61651 of the CFI of Manila and/or to execute on the judgment for value in view of the alleged depreciation of the said cars. Respondent Cuevas and Citadel Insurance and Surety Co., Inc. filed an urgent motion to declare the judgment satisfied and to recall the writ of execution. After the parties were given sufficient opportunity to make several motions, oppositions and memoranda, the trial court issued orders declaring the judgment already satisfied and directing the clerk of court

to return the amount deposited by Cuevas. This caused the filing of a motion for reconsideration by petitioner and opposition and the filing of memoranda by the parties. On July 31, 1970, the court set aside its order declaring the judgment satisfied and directed the reception of the evidence concerning the value of the Datsun cars.

On September 25, 1970, the trial court denied the motion of petitioner corporation and ruled that the petitioner corporation had not filed any application for damages while the case was pending before the trial court or before appeal by respondent Cuevas was perfected, or before the judgment of the trial court had become final and executory; that since the judgment of the court had long become final, the claim of petitioner corporation against the bond of Citadel Insurance and Surety Co., Inc. can no longer be entertained, as the court had already lost its jurisdiction to amend the decision in the case to include the award of damages against the re-delivery bond. The trial court stated that although petitioner corporation had alleged proofs to show the substantial deterioration of the two Datsun cars in support of its claim for the execution of the judgment for value, these proofs had already been presented and made known to the court before the latter issued its orders on April 21, 1970 declaring the judgment satisfied. Moreover, the court also declared that petitioner corporation had abandoned and waived its right to present more concrete and acceptable evidence concerning the value of the two Datsun cars, when it failed to comply with the order of the court on July 31, 1970 directing the introduction of such evidence. The trial court finally concluded that the total evidence on record was not sufficient to prove the assertion of petitioner corporation that the two cars had substantially deteriorated, and that the judgment had in fact already been satisfied (pp. 85-103, Records).

On May 10, 1971, petitioner corporation filed Civil Case No. 83110 against respondent Cuevas based on two causes of action, to wit: firstly, to recover the unpaid sum of P12,450.92 plus interest, on the promissory note for P38,135.36 made on November 21, 1963 by respondent Cuevas in favor of Ace Consolidated, Inc.; and secondly, to collect the remaining sum of P12,254.45 on the promissory note for P12,540.00 made on December 9, 1963, in favor of Ace Consolidated, Inc.

On September 27, 1971, petitioner filed a motion for the dismissal of the first cause of action in its complaint, which motion was granted by the trial court. Thereafter, on September 27, 1971, petitioner filed another complaint docketed as Civil Case No. 84625, to collect the amount of P12,450.92 with interest, based on the promissory note executed on November 22, 1963, in favor of Ace Consolidated, Incorporated.

Answering the complaints in Civil Cases Nos. 83110 and 84625, respondent Cuevas admitted the genuineness and due execution of the two promissory notes, but asserted as affirmative defenses, that the said promissory notes had already been litigated in Civil Cases Nos. 61514 and 61651; that the decision rendered therein had become final and had already been executed, so that the present suits are now barred on the ground of *res judicata* and/or, that the obligations of the respondent under the two promissory notes had long been extinguished by payment or satisfaction of prior judgment.

On December 15, 1971, the trial court issued an order for consolidation of cases nos. 83110 and 84625 upon motion of petitioner. After consolidation and trial on the merits of both cases, the trial court rendered a decision on August 14, 1975, the dispositive portion of which states:

“IN VIEW OF THE FOREGOING, the Court dismis[s]e the complaints and sentences the plaintiff to pay the defendant P3,000.00 by way of attorney's fees as well as the costs.

“SO ORDERED.” (pp. 66-67, Records)

From the aforequoted decision, petitioner corporation appealed to the Intermediate Appellate Court (now Court of Appeals). On October 28, 1983, the respondent appellate court rendered judgment, the dispositive portion of which provides:

“WHEREFORE, with the elimination of the P3,000.00 awarded to defendant-appellee by way of attorney's fees, the judgment appealed from is AFFIRMED, without pronouncement as to costs.

“SO ORDERED.” (p. 23, Rollo)

Hence, the petition was filed, with the petitioner assigning the following errors:

“a. The pronouncement in the Decision (on a question of law) that the Decisions in Civil Cases 61514 and 61651 are res adjudicata to Civil Cases 83110 and 84625;

“b. The palpable error in the finding of respondent the Honorable Intermediate Appellate Court that the Promissory Notes, dated November 22, 1963 and December 9, 1963, subject of Civil Cases 83110 and 84625 were previously discharged or satisfied;” (p. 7, Rollo).

Petitioner corporation contends that the doctrine of res judicata cannot apply in this case because Civil Cases Nos. 83110 and 84625 are independent ordinary actions for sums of money, not the continuation or enforcement of the previous unsatisfied judgment in Civil Case No. 61514. It further submits that the first case, namely No. 61514 is for annulment of document, whereas the action in cases nos. 83110 and 84625 are for sums of money arising from unpaid promissory notes.

We find the petitioner's contentions devoid of merit.

Rule 39, Section 49 of the Rules of Court expressly provides:

“Sec. 49. Effect of judgments. The effect of a judgment or final order rendered by a court or judge of the Philippines, having jurisdiction to pronounce the judgment or order, may be as follows:

“x x x.

“(b) In other cases, the judgment or order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity;”

The aforequoted provision enunciates the rule of res judicata or bar by prior judgment. The doctrine of res judicata is an old axiom of the law, dictated by wisdom and sanctified by age, and is founded on the broad principle that it is to the interest of the public that there should be an end to litigation by the same parties over a subject once fully and fairly adjudicated (*Fernandez v. Sebido, et al.*, 70 Phil. 151).

For the doctrine to apply, the following elements should concur, to wit: 1) the presence of a final former judgment; 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 and the second actions, identity of parties, of subject matter, and of cause of action (*Eternal Gardens Memorial Parks Corp. v. Court of Appeals*, G.R. 73794, September 19, 1988; *Carandang v. Venturanza*, No. L-41940, November 29, 1984, 133 SCRA 437).

There is no dispute as to the existence of and compliance with the first three elements of res judicata in the case at bar. The question left to be resolved is whether the subject matters and causes of action in Cases Nos. 61514 and 61651 and Cases Nos. 83110 and 84625 are identical.

The subject matter of an action is the matter or thing from which the dispute has arisen, and ordinarily, it is the property or the contract or any other thing subject of the controversy. Records disclose that the controversy in Civil Cases Nos. 61514 and 61651 arose from the sale of motor vehicles evidenced by the following: 1) a

promissory note dated November 21, 1963 executed by Felimon Cuevas in the amount of P38,135.26, secured by a chattel mortgage over one Nissan truck subject of the sale, in favor of Ace Consolidated, Inc. petitioner's predecessor in interest; 2) another promissory note dated November 22, 1963 executed by respondent Cuevas in favor of Ace Consolidated, Inc., in the amount of P12,540.00, secured by a chattel mortgage over one Datsun Bluebird car subject of the sale; and 3) another promissory note dated November 9, 1963, executed by respondent Cuevas in favor of Ace Consolidated, Inc., petitioner's predecessor in interest, in the amount of P12,540.00 secured by a chattel mortgage over another Datsun Bluebird car subject of the sale. The same promissory notes dated November 21, 1963 and December 9, 1963 were again the subjects of the action filed by petitioner in Civil Case No. 83110. Likewise, the promissory note dated November 22, 1963, which was taken up previously in Cases Nos. 61514 and 61651 is brought again in issue in Case No. 84625. Thus, the identity of subject matter in both cases cannot be gainsaid. As such, the judgment in Civil Cases Nos. 61514 and 61651 are conclusive as to all questions litigated and decided therein.

In determining whether the causes of action are identical so as to warrant application of the rule of res judicata, the following question is a sufficient criterion: would the same evidence support and establish both the present and former causes of action? If so, the prior judgment is a bar; otherwise, it is not. Moreover, there is identity of causes of action when the judgment sought will be inconsistent with the prior judgment (*Tan v. Valdehueza, et al.*, L-38745, August 6, 1975, 66 SCRA 61).

The complaint filed by respondent Cuevas in Civil Case No. 61514 was to ask the court to enjoin petitioner corporation from taking possession or foreclosing the chattel mortgages on the two Datsun Bluebird cars claiming that the payment of his obligations was up-to-date, and to order petitioner to apply the payments made by Cuevas to the two cars and not to the Nissan truck. Petitioner corporation filed its answer with counterclaim seeking a writ of replevin or the payment of unpaid installments with interest from the sale of the two Datsun Bluebird cars, which claims were granted by the trial court from the evidence presented. Further, petitioner corporation instituted Civil Case No. 61651 to collect the unpaid installment price on the Nissan truck bought by Cuevas. These were the same reliefs sought by petitioner corporation in its complaints in Cases Nos. 83110 and 84625, that is, the payment of unpaid installments based on the promissory notes executed by respondent Cuevas from the sale of the Nissan truck and the two Datsun cars. Although petitioner corporation was merely the defendant in the first action (Case No. 61514), it interposed several counterclaims which were tried and determined in the lower court. Hence, notwithstanding a difference in the forms of the two actions, the doctrine of res judicata will be applied where it appears that the parties in the suits were in effect "litigating for the same thing." A party cannot, by varying the form of action, or adopting a different method of presenting his case, escape the operation of the principle that one and the same cause of action shall not be twice litigated between the same parties or their privies (*Peñalosa v. Tuason*, 22 Phil. 303).

Petitioner further submits that there is no substantial distinction between a new action for a sum of money and an action for revival of judgment; that instead of filing an action for revival of the previous judgment in Case No. 61514, it had chosen to file new suits for sum of money based on this same promissory notes dated November 22, 1963 and December 9, 1963, because the five-year period from the finality of the judgment in Case No. 61514 had already elapsed, without the said judgment having been satisfied.

The foregoing contentions are untenable. Section 6 of Rule 39 explicitly provides:

"Sec. 6. Execution by motion or by independent action. - A judgment may be executed on motion within five (5) years from the date of its entry or from the date it becomes final and executory. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action."

The only action contemplated in the above-quoted provision of law is one for revival of judgment and not a new

action based on the original controversy decided upon with finality. The action for revival of judgment is a new and independent action wherein the cause of action is the judgment itself and not the merits of the action upon which the judgment sought to be enforced is rendered. Its purpose is not to re-examine and re-try the issues already decided but only to revive the judgment (*Azotes v. Blanco*, 85 Phil. 90).

We held in the case of *Compania General de Tabacos v. Martinez*, 29 Phil. 515, and reiterated in the later case of *Estonina v. Southern Marketing Corporation, etc., et al.*, G.R. No. 61375, November 23, 1988, the following rule:

“After the lapse of five years, however, the judgment creditor can no longer enforce the judgment by process issuing as his request from the court which rendered it. It is then beyond the power of that court to issue execution upon its judgment. The judgment is, after that period of time, reduced to a mere right of action in favor of the person whom it favors which must be enforced, as are all other ordinary actions, by the institution of a complaint in the regular form. Being a final judgment of a court, it is of course, conclusive as to the controversy between the parties up to the time of its rendition. By the mere pleading of the judgment and its introduction in evidence, the plaintiff effectually blocks all investigation into the merits of the original controversy. But, being a mere right of action, it is subject to defenses and counterclaims which may have arisen subsequent to the date it became effective, as, for instance, prescription, which bars an action upon a judgment after ten years (Sec. 43, par. 1, Code Civ. Proc.) or payment; or counterclaims arising out of transactions not connected with the former controversy. In other words, the judgment creditor finds himself in the position of any other litigant and is under an equal necessity of proving his case, although his trouble in doing so may be less due to the conclusiveness of the evidence which he has to offer, that is, his judgment . . . .”

Anent its second assigned error, petitioner claims that respondent appellate court erred in finding that the promissory notes, subject of Civil Cases Nos. 83110 and 84625 were previously discharged or satisfied.

Such allegation is unfounded, baseless and also misleading. In fact the respondent court found petitioner's second assignment of error meritorious and concluded in its decision that the aforementioned judgment in Case No. 61514 had not been satisfied and duly executed because while the two (2) Datsun Bluebird cars were delivered, the same were in dilapidated condition. But despite this finding, respondent court ruled that petitioner cannot be allowed to file the action anew because it is barred by the principle of *res judicata* (p. 23, Rollo). Clearly, petitioner committed a mistake in alleging that there was such an error committed by the respondent appellate court.

ACCORDINGLY, the petition is hereby DENIED and the decision of the respondent Intermediate Appellate Court (now Court of Appeals) dated October 28, 1983 is AFFIRMED.

**SO ORDERED.**

Narvasa, (Chairman), Gancayco, and Grino-Aquino, JJ., concur.  
Cruz, J., on leave.

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