

## SECOND DIVISION

[ G.R. No. 119707, November 29, 2001 ]

**VERONICA PADILLO, PETITIONER, VS. COURT OF APPEALS AND  
TOMAS AVERIA, JR., RESPONDENTS.**

### DECISION

**DE LEON, JR., J.:**

Before us is a petition for review on certiorari of the Decision<sup>[1]</sup> of the Court of Appeals dated November 22, 1994 in CA-G.R. CV No. 40142 reversing the Decision<sup>[2]</sup> dated March 31, 1992 of the Regional Trial Court of Lucena City, Branch 54 in Civil Case No. 9114 on the ground of *res judicata*.

Civil Case No. 9114, which found its way to this Court via the instant petition, is a petition<sup>[3]</sup> for declaratory relief and damages initiated by petitioner Veronica Padillo<sup>[4]</sup> on December 14, 1983. In the petition filed against respondent Tomas Averia, Jr. and one Beato Casilang, petitioner Padillo alleged that she is the absolute owner of a Two Hundred Fifty-One (251) square meter parcel of land with improvements thereon located in Quezon Avenue, Lucena City, Quezon Province, covered and described in Transfer Certificate of Title (TCT) No. T-9863, which she purchased from Marina M. de Vera-Quicho and Margarita de Vera. Petitioner ascribed fault upon Averia and Casilang with unlawful refusal to turn over the property in her favor; and that respondent Averia even instituted Civil Case No. 1690-G,<sup>[5]</sup> a suit for rescission of two (2) deeds solely for harassment and dilatory purposes although the suit actually established petitioner's right of ownership over the subject property.

Petitioner Padillo prayed for the issuance of an injunctive writ to place her in the possession and use of her said property, and prohibiting respondents from disturbing the same; and ultimately, that judgment be rendered ordering respondent Averia and Casilang to pay jointly and severally to petitioner Padillo: (a) One Hundred Fifty Thousand Pesos (P150,000.00) annual unrealized income for the use of her said property from January 4, 1982, (b) moral and exemplary damages the amount of which she leaves to the court for proper evaluation and (c) attorney's fees of Eighty Thousand Pesos (P80,000.00) plus Six Hundred Pesos (P600.00) per appearance in court.

In his Answer,<sup>[6]</sup> Casilang specifically denied the material allegations of the petition. He alleged that as early as June 1, 1982, he vacated the subject property and, thus, the case against him should be dismissed.

On March 2, 1984, respondent Averia filed his Answer with Counterclaim and Motion to Dismiss<sup>[7]</sup> wherein he invoked the decision rendered in Civil Case No. 1620-G, a suit for specific performance against Marina M. de Vera-Quicho. He further raised

the defenses of *litis pendencia*, laches, estoppel, *res judicata* and lack of cause of action, and prayed for the dismissal of the petition as well as the grant of his counterclaims for damages.

It appears that prior to the institution of Civil Case No. 9114, there were already three (3) actions which involved the said property, namely, Civil Case No. 1620-G, M.C. No. 374-82, and Civil Case No. 1690-G.

Civil Case No. 1620-G was instituted by respondent Averia against Marina M. de Vera-Quicho and the Register of Deeds of Lucena City for specific performance and/or damages which involved the lot subject of the sale. A subsequent decision dated June 2, 1983 rendered by the Regional Trial Court of Gumaca, Quezon, Branch 62 in said Civil Case No. 1620-G ordered Marina M. de Vera-Quicho to execute the necessary documents over the property covered by said Transfer Certificate of Title (TCT) No. T-9863 and enjoined the Register of Deeds of Lucena City to desist from entering any encumbrance or transaction on said certificate of title and/or cancel the same except in favor of respondent Averia.<sup>[8]</sup> The said decision became final and executory as no motion for reconsideration or appeal was filed therefrom.<sup>[9]</sup>

M.C. No. 374-82,<sup>[10]</sup> was instituted by petitioner Padillo on July 6, 1982 to compel the Register of Deeds of Lucena City to register the deed of sale dated February 10, 1982 wherein Margarita de Vera<sup>[11]</sup> sold to petitioner Padillo her one-half (1/2) *pro-indiviso* share of the lot and the building erected thereon, covered by TCT No. T-9863, considering the refusal of the Register of Deeds to register said deed of sale in view of a restraining order issued in Civil Case No. 1620-G. The petition to register the deed was opposed by respondent Averia.

On July 7, 1983, during the pendency of M.C. No. 374-82, Civil Case No. 1690-G was instituted by respondent Averia against spouses Edilberto de Mesa and petitioner Padillo.<sup>[12]</sup> The said case is a complaint for rescission of two (2) deeds of sale, namely: (a) the "Kasulatan ng Bilihan na may Pasubali" dated January 5, 1982 wherein Marina M. de Vera-Quicho sold to petitioner Padillo her one-half (1/2) *pro-indiviso* share over lot together with the house thereon, subject of TCT No. T-9863, which was registered and annotated at the back of said TCT on January 11, 1982 per Entry No. 54967, and (b) the deed of sale dated February 10, 1982 subject of M.C. No. 374-82. Respondent Averia claimed ownership of the same lot subject of TCT No. T-9863 by virtue of an unregistered contract to sell dated January 5, 1982 executed in his favor by Marina M. de Vera-Quicho.<sup>[13]</sup> Petitioner Padillo sought the dismissal of the amended complaint.<sup>[14]</sup> In an Order dated September 30, 1983, Civil Case No. 1690-G was dismissed by Branch 61 of the RTC of Gumaca, Quezon Province for improper venue.<sup>[15]</sup> Respondent Averia interposed an appeal with the Court of Appeals.<sup>[16]</sup>

In the meantime, a decision dated September 23, 1983 was rendered in M.C. No. 374-82 wherein Branch 57 of the RTC, Lucena City ordered the Register of Deeds to register the deed of sale dated February 10, 1982.<sup>[17]</sup> Respondent Averia assailed the decision in M.C. No. 374-82 via a petition for certiorari and prohibition in G.R. No. 65129<sup>[18]</sup> with the Supreme Court contending that the trial court has no jurisdiction to order the registration of a deed of sale which is opposed on the ground of an antecedent contract to sell. In a Decision dated December 29, 1986,

the Supreme Court declared that the trial court has jurisdiction since Section 2 of Presidential Decree No. 1529 (Property Registration Decree) eliminated the distinction between the general jurisdiction and the limited jurisdiction of the Regional Trial Court acting as a cadastral court under Section 112 of Act 496 (Land Registration Act).<sup>[19]</sup> The Supreme Court set aside the September 23, 1983 decision of the trial court and ordered a new trial where all parties interested in the case may appear and be given opportunity to be heard.

Pursuant to the Supreme Court's decision, a new trial was conducted in M.C. No. 374-82. Following notice and hearing in the new trial, the trial court rendered a Decision dated May 5, 1988, which declared petitioner Padillo as sole and exclusive owner of the property in question and ordered the Register of Deeds of Lucena City to register the questioned deed of sale in favor of petitioner Padillo.

The decision of the RTC in M.C. No. 374-82 was appealed to the Court of Appeals<sup>[20]</sup> which rendered judgment on December 28, 1990 sustaining the decision of the trial court. Dissatisfied, respondent Averia appealed to the Supreme Court via a petition for review on certiorari which was denied in a Resolution dated June 17, 1991 for failure to show that the Court of Appeals had committed any reversible error in the questioned judgment.<sup>[21]</sup> Respondent Averia sought reconsideration but the same was denied in a Resolution dated August 26, 1991.<sup>[22]</sup> A subsequent motion for leave to file a second motion for reconsideration was likewise denied on October 21, 1991.<sup>[23]</sup>

While the foregoing proceedings ensued in M.C. No. 374-82, the trial court in Civil Case No. 9114, issued an Order dated March 20, 1984 wherein it deferred the resolution of respondent Averia's motion to dismiss and ordered the case temporarily archived in view of the pendency in the Court of Appeals of the appeal of respondent Averia in Civil Case No. 1690-G.<sup>[24]</sup>

When the Court of Appeals subsequently affirmed, in a decision dated September 16, 1987, the dismissal of Civil Case No. 1690-G for improper venue,<sup>[25]</sup> the hearing in Civil Case No. 9114 was resumed on November 19, 1987<sup>[26]</sup> but resolution of respondent Averia's November 18, 1987 Motion to Dismiss<sup>[27]</sup> was deferred in view of the pendency of M.C. No. 374-82.<sup>[28]</sup>

When M.C. No. 374-82 was finally resolved in the decision dated May 5, 1988, the trial court in an Order dated June 1, 1988 proceeded to deny respondent Averia's Motion to Dismiss and Motion to Suspend Further Proceeding in Civil Case No. 9114.<sup>[29]</sup>

Thereafter, respondent Averia assailed the denial of his motion to dismiss in a petition for *certiorari* and prohibition, docketed as CA-G.R. SP No. 15356, before the Court of Appeals, which on December 21, 1989 rendered a decision therein ordering the suspension of the proceedings in Civil Case No. 9114 to await the final termination of M.C. No. 374-82 then pending appeal with the Court of Appeals.<sup>[30]</sup> No appeal was filed therefrom, hence, the decision of the appellate court in CA-G.R. SP No. 15356 became final.<sup>[31]</sup>

With the Supreme Court denying the petition to challenge the Court of Appeal's affirmance of the decision in M.C. No. 374-82,<sup>[32]</sup> the trial court rendered the assailed March 31, 1992 Decision<sup>[33]</sup> in Civil Case No. 9114, which reads:

WHEREFORE, in view of the foregoing considerations, judgment is rendered ordering Tomas Averia, Jr. or any persons claiming any right from him, to vacate and surrender the possession of the lot covered by TCT No. T-9863 of the Registry of Deeds of Lucena City and the building erected thereon, to Veronica Padillo and to pay the latter the following amounts:

- 1) Unrealized income from the lot and building in the sum of P150,000.00 every year from January 5, 1982 until Tomas Averia vacates the same;
- 2) Attorneys fees in the sum of P107,000.00 plus P1,000.00 per appearance in the hearing of the case and litigation expenses of P10,000.00;
- 3) Moral damages of P50,000.00;
- 4) Exemplary damages of P20,000.00; and
- 5) Costs of suit.

SO ORDERED.

On appeal to the Court of Appeals, the appellate court in CA-G.R. CV No. 40142 rendered its subject decision on November 22, 1994 reversing the trial court based on the ground of *res judicata*. The appellate court ratiocinated:

The Court finds that *res judicata* bars the appellee's claims. MC No. 374-82 resolved the case on the merits. Civil Case No. 1620-G, dismissed on account of improper venue, may not - strictly speaking - be considered an adjudication of the case on the merits. xxx

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Not having claimed the damages she supposedly suffered despite the new trial ordered for MC No. 374-82, and the clarification of the expanded jurisdiction of the court *a quo*, the appellee is correctly perceived by the appellant to have already lost her right to recover the same in the instant suit. In finding the decision in the former case a bar to the latter, the Court is guided by the long-standing rule that a final judgment or order on the merits rendered by a court having jurisdiction over the subject matter and the parties is conclusive in a subsequent case between the same parties and their successors-in-interest litigating upon the same thing and issue (*Vencilao vs. Varo*, 182 SCRA 492, citing *Sy Kao vs. Court of Appeals*, 132 SCRA 302; *Carandang vs. Venturanza*, 133 SCRA 344; *Catholic Vicar Apostolic of the Mountain Province vs. Court*, 165 SCRA 515). It matters little that the instant case is supposedly one for declaratory relief and damages, while the former case is one originally for registration of the appellee's documents of title. 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 parties and their privies (Filipinas Investment and Finance Corp. vs. Intermediate Appellate Court, 179 SCRA 506; Bugnay Construction and Development Corp. vs. Laron, 176 SCRA 804). On the principle, moreover, that *res judicata* bars not only the relitigation in a subsequent action of the issues raised, passed upon and adjudicated, but also the ventilation in said subsequent suit of any other issue which could have been raised in the first but was not (Africa vs. NLRC, 170 SCRA 776), the court *a quo* clearly erred in not holding the instant action to be barred by prior judgment.<sup>[34]</sup>

Disagreeing with the foregoing disquisition, petitioner sought reconsideration of the same but it proved unavailing inasmuch as petitioner's motion for reconsideration<sup>[35]</sup> was denied in a Resolution<sup>[36]</sup> dated April 7, 1995. The Court of Appeals, in resolving petitioner's motion for reconsideration in the negative, rendered the following pronouncements:

Contrary, however, to [Padillo's] position, the Court's application of the principle of *res judicata* was neither based nor in any way dependent on the inaccuracies emphasized in the motion and incidents she filed. While it is readily conceded that the Court was obviously referring to Civil Case No. 1690-G as that which the Gumaca Court dismissed on account of improper venue, the passage which states that the self-same was filed ahead of MC No. 374-82 is one actually quoted from the trial court's March 31, 1992 decision which [Padillo] did not and still does not contest. Corrected though the Court may stand on these particulars, however, it bears emphasis that the instant case was determined to be barred by *res judicata* not so much on account of the decision rendered in Civil Case No. 1690-G but by that rendered in MC No. 374-82. It consequently matters little that the latter case was originally filed ahead of the former as [Padillo] had been wont to stress. The fact that its new trial was only ordered on December 29, 1986 together with a clarification of the land registration court's expanded jurisdiction under Section 2 of Presidential Decree No. 1592 effectively rendered the decision promulgated therein a bar to the claim for damages [Padillo] pursued in the instant case. It is, moreover, repugnant to the prohibition against multiplicity of suits to allow [Padillo] - or any party-litigant for that matter - to claim in a separate action the damages she supposedly suffered as a consequence to the filing of another.

Considering that the December 21, 1989 decision rendered in CA-G.R. SP No. 15356 granted the petition then filed by [Averia] (p. 200, rec.), the Court, finally, fails to appreciate the sapience of [Padillo's] invocation thereof as a bar to the appeal herein perfected by [Averia]. xxx<sup>[37]</sup>

Hence, petitioner interposed the instant petition for review anchored on seven (7) assigned errors, to wit:

A. THE RESPONDENT COURT OF APPEALS COMMITTED REVERSIBLE ERROR AMOUNTING TO GRAVE ABUSE OF DISCRETION IN ITS