

## TWENTIETH DIVISION

[ CA-G.R. CV NO. 03495, January 12, 2015 ]

**MICHAEL MONTELIBANO DULY REPRESENTED BY ROMMEL  
FREDERICK M. TING, PLAINTIFF-APPELLANT, VS. ELAINE G.  
MONTELIBANO, DEFENDANT-APPELLEE.**

### DECISION

**QUIJANO-PADILLA, J.:**

This is an appeal<sup>[1]</sup> from the Order<sup>[2]</sup> dated March 1, 2010 of the Regional Trial Court (RTC), Branch 46, Bacolod City in Civil Case No. 08-13257 for Correction of Entry of Area of TCT No. T-195751 and Declaration of TCT No. T-2608 as partially cancelled. The assailed Order dismissed the instant case on the ground of res judicata.

### The Antecedents

The instant appeal arose from a Complaint<sup>[3]</sup> for Correction of Entry of Area of TCT No. T-195751 and Declaration of TCT No. T-2608 as partially cancelled filed by plaintiff-appellant Michael Montelibano, duly represented by Rommel Frederick M. Ting, against defendant-appellee Elaine P. Montelibano.

In the said Complaint, plaintiff-appellant alleged that he is one of the grandchildren and heirs of Martina S. Montelibano, who died on January 18, 1978. That the late Martina S. Montelibano was predeceased by his only son, Rafael Montelibano, who died on September 9, 1968 and who is also the father of plaintiff-appellant. That the late Rafael Montelibano, married to Lily Villasor, begot three children, namely: Maria Cecilia, Eleanor and Michael, all surnamed Montelibano. That the late Martina Montelibano was the registered owner of a parcel of land, particularly known as Lot No. 205, (subject property) with an area of one thousand six hundred nine (1,609) square meters, situated at 18<sup>th</sup> and Lacson Streets, Bacolod City as evidenced by Transfer Certificate of Title No. T-2608,<sup>[4]</sup> issued by the Register of Deeds of Bacolod City. That the late Martina Montelibano sold a portion of the subject property consisting of one thousand (1,000) square meters to one Fernando Montelibano, which sale was annotated on the back of TCT No. T-2608 under Entry No. 4198. That the remaining six hundred nine (609) square meters was retained by the late Martina Montelibano where her house was then situated and her grandchildren were living until they left for the United States of America. That the Register of Deeds of Bacolod City committed an error of canceling the TCT No. T-2608, instead of partially canceling the same by virtue of the aforementioned sale, and correspondingly issued TCT No. T-10132<sup>[5]</sup> under the name of one Fernando Montelibano consisting of 1,609 square meters. That Fernando Montelibano executed a deed of assignment<sup>[6]</sup> in favor of defendant-appellee Elaine Montelibano, as annotated at the back of TCT No. T-10132 under Entry No. 206481. By virtue of

the said assignment, the Register of Deeds of Bacolod City canceled TCT No. T-10132 and issued TCT No. T-195751<sup>[7]</sup> under the name of defendant-appellee. That when plaintiff-appellant traced the title of the subject property from his grandmother, the late Martina Montelibano, to the defendant-appellee, plaintiff-appellant discovered the cancellation by the Register of Deeds of Bacolod City of the entire TCT No. T-2608 under the name of the late Martina Montelibano, when in truth and in fact only a portion of the subject property was sold by the latter to Fernando Montelibano. Hence, this complaint.<sup>[8]</sup>

After summons were served, defendant-appellee filed her Answer with Counterclaim<sup>[9]</sup>. In her Answer with Counterclaim, defendant-appellee invoked several grounds for the dismissal of this case, such as lack of jurisdiction, res judicata and prescription as well as non-payment of the correct docket fees. By way of special and affirmative defenses, defendant-appellee alleged that the late Martina Montelibano, the former owner of the subject property, sold portions of the same adding up to the whole thereof to Fernando Montelibano. According to defendant-appellee, two instruments of sale were executed, first, on August 2, 1950, which covered 1,000 square meters, and next, on January 20, 1954,<sup>[10]</sup> which covered the remaining 609 square meters.<sup>[11]</sup>

Defendant-appellee likewise alleged that the issues raised in the instant Complaint by the plaintiff-appellant as well as the validity of the two deeds of sale were the same issues raised by another claimant, Augusto Montelibano, in a complaint he filed against Fernando Montelibano on April 15, 1991 before the RTC of Negros Occidental, Branch 51, Bacolod City, docketed as Civil Case No. 6457 for Petition to Declare TCT No. T-10132 Null and Void with Damages<sup>[12]</sup>. In his Answer<sup>[13]</sup> to the complaint of Augusto Montelibano, Fernando Montelibano, now deceased, invoked as his defense the two deeds of sale herein mentioned and insisted on the regularity of the transfer of the ownership of not just 1,000 square meters but the whole of Lot No. 205.<sup>[14]</sup>

Defendant-appellee further alleged that in a Decision<sup>[15]</sup> dated November 19, 1993 rendered by the RTC, Branch 51, Bacolod City, the Court ruled in favor of Fernando Montelibano by upholding the validity of the two deeds of sale and declared that what was sold by the late Martina Montelibano to Fernando Montelibano was the whole area of 1,609 square meters of Lot No. 205. The appeal interposed by Augusto Montelibano to the Court of Appeals was dismissed and the said Decision of the RTC, Branch 51 had become final and executory on June 2, 1995.<sup>[16]</sup>

Defendant-appellee argued that with the issue having been settled by a co-equal branch, the RTC is without jurisdiction to entertain the instant Complaint and disturb the ruling of the RTC, Branch 51. Defendant-appellee likewise argued that the ruling by RTC, Branch 51 gives the occasion for the application of the principle of res judicata in this case that should provide a sufficient ground for the dismissal of this case. As additional grounds, defendant-appellee argued that plaintiff-appellant failed to include in his complaint his co-heirs who must be joined herein as indispensable parties, nor was the plaintiff-appellant able to show that he was duly authorized to file the complaint in their behalf; that the plaintiff-appellant is now barred by prescription from filing this case or questioning the sale and transfer of ownership of Lot No. 205 in favor of Fernando Montelibano because the sale took place in 1954 or

about 54 years ago; that plaintiff-appellant, not being a party to any of the two deeds of sale herein mentioned, is a stranger to said contracts and he cannot sue thereon nor has he any cause of action against defendant-appellee; and that defendant-appellee, not being privy to the said contracts, she cannot be sued thereon and she should be deemed an innocent successor-in-interest.<sup>[17]</sup>

Finally, according to defendant-appellee, the instant action should be an action for reconveyance of property but instead the instant complaint was conveniently denominated by plaintiff-appellant as Correction of Entry of Area TCT No. T-195751 and Declaration of TCT No. T-2608 as Partially Cancelled most probably to avoid the payment of the appropriate filing fees and therefore, the Complaint should be dismissed for inadequate payment of filing fees.<sup>[18]</sup>

### **The Ruling of the RTC**

After the preliminary hearing conducted based on the affirmative defenses raised by defendant-appellee, the RTC issued an Order<sup>[19]</sup> on March 1, 2010 dismissing the instant case on the ground of res judicata. The dispositive portion of said Order reads:

"IN LIGHT OF ALL THE FOREGOING, Judgment is hereby rendered by the Court DISMISSING the instant Complaint by reason of res judicata, without prejudice to the prosecution in a separate action of the counterclaim pleaded by the defendant in her Answer with Counterclaim."

Plaintiff-appellant moved for a reconsideration<sup>[20]</sup> of the above ruling but the same was denied by the RTC in its Order<sup>[21]</sup> dated April 16, 2010.

Aggrieved, plaintiff-appellant appealed before Us assigning the following errors:

#### **I.**

**THAT THE REGIONAL TRIAL COURT, BRANCH 46 -BACOLOD CITY HAD ERRONEOUSLY DECLARED THAT THERE WERE IDENTITIES OF PARTIES IN THE PREVIOUS CASE UNDER CIVIL CASE NO. 6457 AND THE PRESENT CASE.**

#### **II.**

**THAT THE REGIONAL TRIAL COURT BRANCH 46-BACOLOD CITY ERRONEOUSLY DISMISSED THE INSTANT CASE BASED ON RES JUDICATA.** <sup>[22]</sup>

### **This Court's Ruling**

The instant appeal lacks merit.

#### ***Res Judicata Applies In This Case***

*Res judicata* means "a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment." It lays the rule that an existing final judgment

or decree rendered on the merits, without fraud or collusion, by a court of competent jurisdiction, upon any matter within its jurisdiction, is conclusive of the rights of the parties or their privies, in all other actions or suits in the same or any other judicial tribunal of concurrent jurisdiction on the points and matters in issue in the first suit.<sup>[23]</sup>

*Res judicata* exists when as between the action sought to be dismissed and the other action these elements are present, namely; (1) the former judgment must be final; (2) the former judgment must have been rendered by a court having jurisdiction of the subject matter and the parties; (3) the former judgment must be a judgment on the merits; and (4) there must be between the first and subsequent actions (i) identity of parties or at least such as representing the same interest in both actions; (ii) identity of subject matter, or of the rights asserted and relief prayed for, the relief being founded on the same facts; and, (iii) identity of causes of action in both actions such that any judgment that may be rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration.<sup>[24]</sup>

Concededly, the first three elements are present in this case. The Decision of the RTC, Branch 51, Bacolod City in Civil Case No. 6457 (the first case), which on appeal was dismissed by this Court, dealt with Fernando Montelibano's, defendant-appellee's predecessor-in-interest, right to Lot No. 205 or the subject property. The ownership of the said property and the validity of the titles covering it have already been questioned and resolved before the trial court and had already become final and executory. Such rulings were rendered in the exercise of the respective courts' jurisdiction over the subject matter, and were adjudications on the merits of the cases.

What remains to be determined is whether Civil Case No. 6457 and the instant case involved the same parties, the same subject matter, the same causes of action, and the same factual and legal issues.

We find that, indeed, this case was no different from Civil Case No. 6457 as far as parties, subject matter, causes of action and issues were concerned. In other words, the instant case was an undisguised relitigation of the same settled matter concerning defendant-appellee's and her predecessor-in-interest's ownership of Lot No. 205.

*First*, there is substantial identity of parties considering that the present case and the previous case involve the heirs of the late Martina Montelibano, the former owner of the subject property. In Civil Case No. 6457, the plaintiff Augusto Montelibano was suing in his capacity as a successor-in-interest of the late Martina Montelibano. In the present case, plaintiff-appellant is likewise suing in the same capacity. In Civil Case No. 6457, the defendant is the predecessor-in-interest of herein defendant-appellee.

In both cases, an identity of parties existed because the parties were the same, or there was privity among them, or some of the parties were successors-in-interest litigating for the same thing and under the same title and in the same capacity.<sup>[25]</sup> An absolute identity of the parties was not necessary, because a shared identity of interest sufficed for *res judicata* to apply.<sup>[26]</sup> Moreover, mere substantial identity of