

## THIRTEENTH DIVISION

[ CA-G.R. CV NO. 99079, March 18, 2015 ]

**SPS. VENANCIO DEL ROSARIO AND DEMETRIA SANTIAGO DEL ROSARIO, PLAINTIFFS-APPELLANTS, VS. OPEN BIBLE BAPTIST CHURCH, PHILIPPINE COMMERCIAL AND INTERNATIONAL BANK (PCIB), NOW BANCO DE ORO (BDO), DEFENDANTS-APPELLEES.**

### DECISION

**CORALES, J.:**

This is an appeal<sup>[1]</sup> from the June 15, 2011<sup>[2]</sup> and March 15, 2012<sup>[3]</sup> Orders of the Regional Trial Court (RTC), Branch 22, Malolos City, Bulacan in Civil Case No. 397-M-2008. The first assailed Order dismissed plaintiffs-appellants Spouses Venancio and Demetria Del Rosario's (Spouses Del Rosario) complaint for declaration of nullity of assignment/exercise of redemption (the nullity of assignment case) on the ground of *res judicata*, while the second Order denied their subsequent motion for reconsideration.

#### The Antecedents

The instant controversy involves a parcel of land in Sta. Maria, Bulacan which has been the subject of an unending legal tussle between the parties. The factual antecedents, as culled from the records, are as follows:

In 1978, Spouses Del Rosario were the registered owners of the subject land then covered by Transfer Certificate of Title (TCT) No. T-234860. On April 27, 1978, they mortgaged it to Insular Bank of Asia and America, later known as Philippine Commercial and International Bank (PCIB), now BDO Unibank, Inc. (BDO),<sup>[4]</sup> but the same was eventually sold at public auction as a result of the foreclosure proceedings initiated by the bank on April 15, 1980.

Despite the foreclosure, Spouses Del Rosario sold the property to defendant-appellee Open Bible Baptist Church (OBBC) on March 4, 1981. OBBC immediately took possession and introduced improvements thereon, but was not able to transfer title of the land in its name. Still uninformed of the foreclosure proceedings, OBBC instituted on April 26, 1990, an action for specific performance with damages against Spouses Del Rosario, docketed as Civil Case No. 277-M-90 and raffled to RTC, Branch 17, Malolos, Bulacan (the specific performance case). In its January 14, 1991 Decision, the RTC, Branch 17 ruled in favor of OBBC by ordering Spouses Del Rosario to return the purchase price of the land and pay compensatory and exemplary damages plus attorney's fees.

Meanwhile, PCIB could not consolidate to its name the title over the property because Spouses Del Rosario refused to surrender the owner's copy of TCT No. T-234860. In 1992, PCIB agreed to assign its right over the property to OBBC upon

compliance with certain terms and conditions.<sup>[5]</sup> The agreement was later on formalized in a Deed of Assignment<sup>[6]</sup> whereby the PCIB assigned, transferred, and conveyed to OBBC the subject land for P85,000.00 on an "as-is, where-is" basis.

In 1995, Spouses Del Rosario lodged before the Municipal Trial Court (MTC) of Sta. Maria, Bulacan a complaint for recovery of possession against OBBC, docketed as Civil Case No. 1119 (recovery of possession case) alleging that the satisfaction of the money judgment in the specific performance case effectively rescinded the March 4, 1981 Deed of Absolute Sale between them. OBBC failed to file its Answer and the MTC rendered judgment in favor of Spouses Del Rosario.

In turn, OBBC filed with the RTC a petition for quieting of title against Spouses Del Rosario, docketed as Civil Case No. 81-M-99 (the quieting of title case), claiming that the MTC judgment in the recovery of possession case casts a cloud on its title. The RTC dismissed the case but it was reversed by this Court through Our February 27, 2004 Decision<sup>[7]</sup> in CA-G.R. CV No. 74073. We directed the Register of Deeds (RD) of Bulacan to cancel Spouses Del Rosario's TCT No. T-234860 and issue title over the said lot in the name of OBBC. The February 27, 2004 Decision attained finality on April 6, 2004 and was entered in the Book of Judgment on the same date.

<sup>[8]</sup>

Four (4) years after, or on July 17, 2008 to be more specific, Spouses Del Rosario initiated the nullity of assignment case. They claimed ownership over the subject land and assailed the validity of the mortgage and the deed of assignment on the following grounds: PCIB failed to annotate the mortgage and the certificate of sale on the owner's copy of TCT No. T-234860, thus, the period to redeem the property did not run; their consent should have been obtained to give validity to the deed of assignment because it was a conventional subrogation; and the deed of assignment was not registered with the RD. They prayed for the nullification of the deed of assignment executed by PCIB in favor of OBBC, the recovery of the ownership and possession of the subject property from OBBC or in the alternative, they be allowed to redeem the property, and payment of attorney's fees and litigation expenses.<sup>[9]</sup>

BDO and OBBC both moved for the dismissal of the case on the ground of failure to state a cause of action, defective certificate of non-forum shopping and verification.

<sup>[10]</sup> OBBC added that the nullity of assignment case is already barred by *res judicata* considering the final and executory judgment in the quieting of title case.

<sup>[11]</sup>

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

In its June 15, 2011 Order,<sup>[12]</sup> the RTC sustained BDO and OBBC's argument that the nullity of assignment case is barred by the prior judgment in the quieting of title case. It found identity of parties, subject matter, and causes of action in both cases and disposed the case as follows:

WHEREFORE, in light of the foregoing finding, the motion to dismiss filed by defendant Open Bible Baptist Church is hereby GRANTED. The instant complaint docketed as Civil Case No. 397-M-2008 is hereby DISMISSED on the ground of *res judicata*. In view thereof, the motion to dismiss filed by defendant Banco De Oro is now deemed moot and academic.

Furnish copies of this Order to all the parties' counsels.

SO ORDERED.

Spouses Del Rosario sought reconsideration but the RTC denied the same in its March 15, 2012 Order.<sup>[13]</sup>

Undeterred, Spouses Del Rosario interposed the instant appeal with this lone assigned error:

A. THE TRIAL COURT ERRED IN DISMISSING THE COMPLAINT IN THE ORDER DATED JUNE 15, 2011 AND DENYING THE PLAINTIFFS-APPELLANTS' MOTION FOR RECONSIDERATION IN ITS ORDER DATED MARCH 15, 2012[.]

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

*Res judicata* serves as an absolute bar to a subsequent action if the following requisites concur: (1) the former judgment or order must be final; (2) the judgment or order must be on the merits; (3) it must have been rendered by a court having jurisdiction over the subject matter and parties; and (4) there must be between the first and second actions, identity of parties, of subject matter, and of causes of action.<sup>[14]</sup>

The existence of the the first three (3) requisites is beyond dispute. The only issue here is whether there was also identity of parties and causes of action between the quieting of title and nullity of assignment cases. Spouses Del Rosario argued that the nullity of assignment case already involved BDO and the relief prayed therein is the nullification of the deed of assignment in favor of OBBC or, in the alternative, the redemption of the property. In contrast, BDO was never impleaded in the quieting of title case which dealt mainly on the removal of cloud over OBBC's title to the property as a result of the MTC Decision in the recovery of possession case. In Spouses Del Rosario's opinion, the issue on nullification of the deed of assignment was never raised and tried in the quieting of title case because it was only mentioned in passing in Our February 27, 2004 Decision; thus, there is no identity of causes of action or issues between the quieting of title and nullity of assignment cases.<sup>[15]</sup>

We are not persuaded.

Identity of causes of action does not mean absolute identity. Otherwise, a party could easily escape the operation of *res judicata* by changing the form of the action or the relief sought.<sup>[16]</sup> Thus, the ultimate test to ascertain identity of causes of action is whether or not the same evidence fully supports and establishes both the first and second cases.<sup>[17]</sup> If the same facts or evidence would sustain both, the two actions are considered the same, and a judgment in the first case is a bar to the subsequent action.<sup>[18]</sup> Hence, a party cannot, by varying the form of action or adopting a different method of presenting his case, avoid 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.<sup>[19]</sup>