BARAO TUCHURUR, Plaintiff

v.

RECHULD, Defendant

Civil Action No. 298

Trial Division of the High Court

Palau District

May 15, 1964

Action to determine title to land, in which defendant moves to dismiss action on ground plaintiff's claims were adjudicated in previous action. In granting motion to dismiss, the Trial Division of the High Court, Associate Justice Paul F. Kinnare, held that where essential claim to both actions is the same, and there is relationship between parties plaintiff in both actions, and lands involved adjoin and are registered in name of same person as result of Japanese land survey, previous judgment precludes party from maintaining present action.

Action dismissed.

1. **Judgments—Res Judicata**
   Doctrine of res judicata inheres in legal systems of all civilized nations as obvious rule of expediency, justice and public tranquility.

2. **Judgments—Res Judicata**
   Public policy and interests of litigants require there be an end to litigation which, without doctrine of res judicata, would be endless.

3. **Judgments—Res Judicata**
   Doctrine of res judicata rests upon ground that party to be affected, or some other with whom he is in privity, has litigated or had opportunity to litigate same matter in former action in court of competent jurisdiction, and should not be permitted to litigate it again to harassment and vexation of opponent.

4. **Judgments—Stare Decisis**
   In general, courts adhere to and follow decisions previously made in similar courts under doctrine of stare decisis.

5. **Judgments—Res Judicata**
   Doctrines of stare decisis and res judicata are based upon wholly different principles.

6. **Judgments—Res Judicata**
   Under doctrine of res judicata, only parties and persons in privity with them are bound by previous decision.

7. **Judgments—Stare Decisis**
   Doctrine of stare decisis governs decisions of same questions in same way in actions between strangers to the record.

8. **Judgments—Res Judicata**
Doctrine of res judicata may be applied to matters essentially connected with subject matter of litigation and to questions necessarily involved or implied in final judgment, although such matters are not directly referred to in pleadings.

9. **Judgments—Res Judicata**
Under doctrine of res judicata, if record of former trial shows judgment could not have been rendered without deciding particular matter, it will be considered as having settled matter as to all further actions between the parties.

10. **Judgments—Res Judicata**
Under doctrine of res judicata, if judgment necessarily presupposes certain premises, they are as conclusive as judgment itself.

11. **Judgments—Res Judicata**
Under doctrine of res judicata, every proposition assumed or decided by court leading up to final conclusion and upon which such conclusion is based is as effectively passed upon as ultimate question which is finally solved.

12. **Judgments—Res Judicata**
Where essential element to party's claims in two separate actions is that individual's title to land involved in both actions was wrongfully or improperly acquired, and there is relationship between parties plaintiff in both actions, and lands involved in both actions adjoin, question of individual's title to land cannot be litigated again in attempt to show its invalidity.

Assessor: JUDGE PABLO RINGANG
Interpreter: SYLVESTER F. ALONZ
Reporter: FLORENCE H. SHOOK
Counsel for Appellant: BENJAMIN OITERONG
Counsel for Appellee: WILLIAM O. WALLY

KINNARE, *Associate Justice*

Defendant's motion is based upon, (1) his contention that the issues in this case had previously been decided in the case of *Imerab Rengiil v. Rudimch*, Palau District Civil Action No. 257, and (2), that the testimony of the plaintiff in this action when he appeared as a witness for the plaintiff in Civil Action No. 257 is inconsistent with the claims plaintiff advances in this action. Civil Action

No. 257 concerned parts of the land known as Ituu and were designated as "A" and "B" in the sketch attached, and the plaintiff Imerab claimed on behalf of the Ituu Lineage of the Terekieu Clan. The findings of fact and the opinion in the judgment order in Civil Action No. 257 are brief and are completely set out below.

"FINDINGS OF FACT

1. The plaintiff Imerab has failed to prove that the particular land in question was ever owned by the Ituu Lineage as she claims it is constituted.

2. The land was controlled and used exclusively by a matrilineal family within that lineage for many years before the Japanese land survey of about 1938–1941, of which family the plaintiff was not a member.

3. That matrilineal family with all the consents necessary for the transfer of its property purported to transfer the land to Rechuld as his individual land at the time of the Japanese land survey of about 1938–1941 and it was listed as Rechuld's individual land in the records of that survey.

OPINION

Under the circumstances disclosed in this action the presumption that listings in the Japanese land survey of about 1938–1941 in the Palau Islands were correct, is entitled to prevail. No question has been raised but what Rechuld has transferred whatever interest he had in the land in question to the defendant Rudimch."

The defendant in Civil Action No. 257, Rudimch, claimed as the transferee of Rechuld (the defendant in this action) and, as set forth above, the court found that Rechuld passed good title to the land involved in Civil Action No. 257 to Rudimch.

No evidence was offered at the hearing in this action on defendant's Motion to Dismiss, but plaintiff amended his claim as shown in the Memorandum of Pre-trial Conference in this case to show that the plaintiff Barao Tuchurur is claiming in this action Lot No. 588, of 110.9

tsubo, and Lot No. 589, of 3,752 tsubo, (Tochi Daichio reference) which plaintiff says comprise the land known as Kedelblai and plaintiff says this area includes the land known as Ingeraki, which land extends into both of the above named lots.

From the land office records produced by plaintiff at the hearing, it clearly appeared that the pieces of land known as "A" and "B" in Civil Action No. 257 are included in Lot No. 574 (Tochi Daichio reference) and so are not included in the land claimed in this action—Lots Nos. 588 and 589.

It is plaintiff's contention that, as the parties and the land involved in this action are both different from the parties and the land involved in Civil Action No. 257, the judgment in Civil Action No. 257 is not ground to dismiss this action. The defendant, in support of his motion, urged that, as Imerab and Barao Tuchurur have a clan relationship and that Tuchurur is claiming on behalf of the Terekieu Clan, of which Ituu Lineage is or claims to be a part (Tuchurur is the highest title of the Terekieu Clan), and as the defendant Rudimch in Civil Action No. 257 was the transferee of Rechuld, the defendant in this action, and as the land involved in Civil Action No. 257 adjoins the land involved in this action, and as the land in both actions was registered in the 1938–1941 land survey as the individually owned property of Rechuld, the basic issue on which plaintiff must rely in this action—that is, that the registration of the land here involved as the individually owned land of Rechuld was either erroneous or wrongful, has already been determined adversely to plaintiff in Civil Action No. 257.

[1-3] The doctrine of res judicata inheres in the legal systems of all civilized nations as an obvious rule of expediency, justice, and public tranquility. Public policy and the interests of litigants alike require that there be an

end to litigation which, without the doctrine of res judicata would be endless. The doctrine of res judicata rests upon the ground that the party to be affected, or some other with whom he is in privity, has litigated, or had an opportunity to litigate, the same matter in a former action in a court of competent jurisdiction, and should not be permitted to litigate it again to the harassment and vexation of his opponent.

[4-11] Speaking generally, and without reference to certain exceptions, courts adhere to and follow decisions previously made in similar cases. This is the doctrine of stare decisis. This doctrine and the doctrine of res judicata are not to be confused, since the two are based upon wholly different principles. One difference between them is that under the doctrine of res judicata only parties and persons in privity with them are bound, while the doctrine of stare decisis governs decisions of the same questions in the same way in actions between strangers to the record.

"There is authority that the doctrine of res judicata is not confined to the ultimate vital points decided in the previous action, but may extend to incidental questions arising therein. It has been applied to matters essentially connected with the subject matter of the litigation and to questions necessarily involved or implied in the final judgment, although no specific finding may have been made in reference thereto, and although such matters were not directly referred to in the pleadings. Under this rule, if the record of the former trial shows that the judgment could not have been rendered without deciding the particular matter, it will be considered as having settled that matter as to all future actions between the parties, and if a judgment necessarily presupposes certain premises, they are as conclusive as the judgment itself. Reasons for the rule are that a judgment is an adjudication on all the matters which are essential to support it, and that every proposition assumed or decided by the court leading up to the final conclusion and upon which such conclusion is based is as effectually passed upon as the ultimate question which is finally solved. It

has been said that the foregoing principles are universally applied, no matter how much injustice may be done by their application to a particular case." Am. Jur., Vol. 30A, Judgments, § 376.

[12] A study of the record in Civil Action No. 257 and the claims of the plaintiff in this action reveal that an essential element to the plaintiffs' claims in both actions is that the individual title of Rechuld to the land involved in both actions was wrongfully or improperly acquired, and the court takes notice of the fact that there is a relationship between the parties plaintiff in both actions, that the lands involved in both actions adjoin and that Rechuld was registered in the Japanese land survey of 1938-1941 as the individual owner of these lands. It seems clear from the record of Civil Action No. 257 and the plaintiff's claims as stated at the pre-trial conference in this action, that both plaintiffs rely upon essentially the same basic claims to deny Rechuld good title. Indeed, the plaintiff in this action, in his testimony in Civil Action No. 257, referred to the land Kedelblai, which is involved in this action but was not involved in Civil Action No. 257, as having been wrongfully registered in the name of Rechuld.

While we see no important inconsistency in the plaintiff's claims in this action and his testimony in Civil Action No. 257, it appears clear to the court that the question of Rechuld's individual title to lands so close together, acquired from the same source, which titles were registered at about the same time, cannot be litigated over and over again·and essentially the same arguments offered over and over again in an attempt to show the invalidity of Rechuld's title. We hold, therefore, that the judgment in Civil Action No. 257 precludes the plaintiff here from maintaining this action.

Accordingly, it is ordered, adjudged, and decreed as follows:-

1. That defendant's motion to dismiss this action is granted, and this action be and it is hereby dismissed.

2. As between the parties and all persons claiming under them, Rechuld has good title to the land Kedelblai more particularly described as Lots Nos. 588 and 589 (Tochi Daichio reference) and that neither the plaintiff nor the Terekieu Clan for which he acts has any right therein.

3. This judgment shall not affect any rights of way there may be over the land in question.

4. No costs are assessed against any party.