Res Judicata: No Res Judicata Where a Decision Is Rendered Without a Judgment

St. John's Law Review

Follow this and additional works at: https://scholarship.law.stjohns.edu/lawreview

Recommended Citation

Available at: https://scholarship.law.stjohns.edu/lawreview/vol42/iss3/30
In the recent case of Continental Auto Lease Corp. v. Campbell, the Court of Appeals was faced with a classic Mills situation. Plaintiff, engaged in the automobile rental business, sought to recover damages against the driver of an automobile which was involved in a collision with one of plaintiff's leased automobiles. The jury had previously found that both plaintiff's driver and the defendant were guilty of negligence. Applying Mills in the present action, the Court allowed plaintiff recovery holding that the negligence of plaintiff's driver was not imputable to plaintiff so as to bar recovery.

The defendant sought to distinguish the case from Mills on two grounds. First, the defendant contended that since here a commercial bailment was involved as opposed to a gratuitous bailment, a different rule should apply. The Court stated that this alone was not enough to deny plaintiff a recovery for damages. Second, the defendant sought to bring the case within the rule of Gochee v. Wagner. Under Gochee, if the owner's relationship to the operator is such that a degree of physical control over the operator can reasonably be deemed to exist, the negligence of the driver can be imputed to the owner so as to bar his recovery against a negligent third party. The Court dismissed this second contention because it felt that plaintiff had no right to control its lessee's conduct as a driver.

The decision in Continental clarifies the Mills rule in regard to leased automobiles, and puts to rest any doubt that a different rule might be applied in the automobile leasing situation.

Res judicata: No res judicata where a decision is rendered without a judgment.

In Mandracchia v. Russo, plaintiff and defendant had, in an earlier suit, litigated the issues involved with their respective positions reversed. The judge, in the earlier action, had rendered a decision, after a non-jury trial, but judgment was never entered because the parties settled in accordance with the terms of the decision. In the present action, the appellate term, second department, held that the earlier decision was not res judicata as to the present action since judgment had never been entered thereon.
In refusing to give the earlier decision res judicata effect, the court was restating the settled law in New York: "Res judicata effect is not given to a legal proceeding unless there has been a final judgment." 119

The dissent, while agreeing that the doctrine of res judicata does not generally apply in the absence of the entry of a final judgment, would have been willing to endorse an exception to the rule making a decision or verdict binding because of the parties' acquiescence to it. 120 The dissent felt that an exception should be allowed in the instant case, especially in light of the recent pragmatic approach to the doctrine of res judicata by the Court of Appeals. 121

Where, as in the instant case, the issues have been previously litigated, and only the ministerial function of entering judgment remains, it seems that there is little to be gained from a technical application of res judicata principles. 122 Not only is the refusal to afford a res judicata defense unfair to the defendant, but the liberal spirit of recent Court of Appeals decisions in the area 123 is circumvented.

Res judicata: Principle applies even where prior court lacked subject matter jurisdiction.

Jurisdiction is the power of a court to reach and affect legal interests. 124 Before a court may effectively render a judgment, it must have jurisdiction over the persons or things involved, as well as subject matter jurisdiction, i.e., competency to decide the particular litigation in question. The judgment of a court proceeding without these two prerequisites is

119 5 WEINSTEIN, KORN & MILLER, NEW YORK CIVIL PRACTICE ¶ 5011.10 (1966).
121 53 Misc. 2d at 1020, 280 N.Y.S.2d at 432.
122 New York recognizes the following exception to the general rule: "In certain instances the final judgment requirement is ignored. When an order adjudicating a fully litigated and central motion in the first action determines the subject matter of the second action and the order was not subject to modification at a later point in the first suit, it is binding on the parties in the subsequent suit. Similarly, when an issue is heard before a referee to hear and report and his report is confirmed by the court, the referee's determination is given res judicata effect." 5 WEINSTEIN, KORN & MILLER, NEW YORK CIVIL PRACTICE ¶ 5011.10 (1966).
124 1 WEINSTEIN, KORN & MILLER, NEW YORK CIVIL PRACTICE ¶ 301.01 (1966).