

FEDERATED DEPARTMENT STORES, INC. v. MOITIE

Supreme Court of the United States, 1981.
452 U.S. 394, 101 S. Ct. 2424, 69 L. Ed. 2d 103.

JUSTICE REHNQUIST delivered the opinion of the Court.

The only question presented in this case is whether the Court of Appeals for the Ninth Circuit validly created an exception to the doctrine of *res judicata*. The court held that *res judicata* does not bar relitigation of an unappealed adverse judgment where, as here, other plaintiffs in similar actions against common defendants successfully appeal the judgments against them. We disagree with the view taken by the Court of Appeals for the Ninth Circuit and reverse.

I

In 1976 the United States brought an antitrust action against petitioners, owners of various department stores, alleging that they had violated § 1 of the Sherman Act by agreeing to fix the retail price of women's clothing sold in northern California. Seven parallel civil actions were subsequently filed by private plaintiffs seeking treble damages on behalf of proposed classes of retail purchasers, including that of respondent Moitie in state court (*Moitie I*) and respondent Brown (*Brown I*) in the United States District Court for the Northern District of California. Each of these complaints tracked almost verbatim the allegations of the Government's complaint, though the *Moitie I* complaint referred solely to state law. All of the actions originally filed in the District Court were assigned to a single federal judge, and the *Moitie I* case was removed there on the basis of diversity of citizenship and federal-question jurisdiction. The District Court dismissed all of the actions "in their entirety" on the ground that plaintiffs had not alleged an "injury" to their "business or property" within the meaning of § 4 of the Clayton Act.

Plaintiffs in five of the suits appealed that judgment to the Court of Appeals for the Ninth Circuit. The single counsel representing Moitie and Brown, however, chose not to appeal and instead refiled the two actions in state court, *Moitie II* and *Brown II*.¹ Although the complaints purported to raise only state-law claims, they made allegations similar to those made in the prior complaints, including that of the Government. Petitioners removed these new actions to the District Court for the Northern District of California and moved to have them dismissed on the ground of *res judicata*. In a decision rendered July 8, 1977, the District Court first denied respondents' motion to remand. It held that the complaints, though artfully couched in terms of state law, were "in many respects identical" with the prior complaints, and were thus properly removed to federal court because they raised "essentially federal law" claims. The court then concluded that because *Moitie II* and *Brown II* involved the "same parties, the same alleged offenses, and the same time periods" as *Moitie I* and *Brown I*, the doctrine of *res judicata* required that they be dismissed. This time, Moitie and Brown appealed.

Pending that appeal, this Court on June 11, 1979, decided *Reiter v. Sonotone Corp.*, holding that retail purchasers can suffer an "injury" to their "business or property" as those terms are used in § 4 of the Clayton Act. On June 25, 1979, the Court of Appeals for the Ninth Circuit reversed and remanded the five cases which had been decided with *Moitie I* and *Brown I*, the cases that had been appealed, for further proceedings in light of *Reiter*.

When *Moitie II* and *Brown II* finally came before the Court of Appeals for the Ninth Circuit, the court reversed the decision of the District Court dismissing the cases.² Though the

¹ Petitioners have filed a supplemental memorandum with the Court indicating that *Moitie II* has been voluntarily dismissed, leaving *Brown II* as the subject of the petition.

² The Court of Appeals also affirmed the District Court's conclusion that *Brown II* was properly removed to fed-

court recognized that a “strict application of the doctrine of *res judicata* would preclude our review of the instant decision,” it refused to apply the doctrine to the facts of this case. It observed that the other five litigants in the *Weinberg* cases had successfully appealed the decision against them. It then asserted that “non-appealing parties may benefit from a reversal when their position is closely interwoven with that of appealing parties,” and concluded that “[b]ecause the instant dismissal rested on a case that has been effectively overruled,” the doctrine of *res judicata* must give way to “public policy” and “simple justice.” We granted certiorari to consider the validity of the Court of Appeals’ novel exception to the doctrine of *res judicata*.

II

There is little to be added to the doctrine of *res judicata* as developed in the case law of this Court. A final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action. Nor are the *res judicata* consequences of a final, unappealed judgment on the merits altered by the fact that the judgment may have been wrong or rested on a legal principle subsequently overruled in another case. As this Court explained, an “erroneous conclusion” reached by the court in the first suit does not deprive the defendants in the second action “of their right to rely upon the plea of *res judicata* * * * . A judgment merely voidable because based upon an erroneous view of the law is not open to collateral attack, but can be corrected only by a direct review and not by bringing another action upon the same cause [of action].” We have observed that “[t]he indulgence of a contrary view would result in creating elements of uncertainty and confusion and in undermining the conclusive character of judgments, consequences which it was the very purpose of the doctrine of *res judicata* to avert.” *Reed v. Allen*, 286 U.S. 191, 201 (1932).

In this case, the Court of Appeals conceded that the “strict application of the doctrine of *res judicata*” required that *Brown II* be dismissed. By that, the court presumably meant that the “technical elements” of *res judicata* had been satisfied, namely, that the decision in *Brown I* was a final judgment on the merits and involved the same claims and the same parties as *Brown II*.³ The court, however, declined to dismiss *Brown II* because, in its view, it would be unfair to bar respondents from relitigating a claim so “closely interwoven” with that of the successfully appealing parties. We believe that such an unprecedented departure from accepted principles of *res judicata* is unwarranted. Indeed, the decision below is all but foreclosed by our prior case law.⁴

In *Reed v. Allen*, this Court addressed the issue presented here. The case involved a dispute over the rights to property left in a will. *A* won an interpleader action for rents derived from the property and, while an appeal was pending, brought an ejectment action against the rival claimant *B*. On the basis of the decree in the interpleader suit *A* won the ejectment action. *B* did not appeal this judgment, but prevailed on his earlier appeal from the interpleader decree and was awarded the rents which had been collected. When *B* sought to bring

eral court, reasoning that the claims presented were “federal in nature.” We agree that at least some of the claims had a sufficient federal character to support removal. As one treatise puts it, courts “will not permit plaintiff to use artful pleading to close off defendant’s right to a federal forum * * * [and] occasionally the removal court will seek to determine whether the real nature of the claim is federal, regardless of plaintiff’s characterization.” The District Court applied that settled principle to the facts of this case. After “an extensive review and analysis of the origins and substance” of the two *Brown* complaints, it found, and the Court of Appeals expressly agreed, that respondents had attempted to avoid removal jurisdiction by “artful[ly]” casting their “essentially federal law claims” as state-law claims. We will not question here that factual finding.

³ The dismissal for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6) is a “judgment on the merits.”

⁴ The decision below also conflicts with those of other Courts of Appeals holding that an adverse judgment from which no appeal has been taken is *res judicata* and bars any future action on the same claim, even if an authoritative contrary judicial decision on the legal issues involved is subsequently rendered in another case.

an ejectment action against A, the latter pleaded *res judicata*, based on his previous successful ejectment action. This Court held that *res judicata* was available as a defense and that the property belonged to A:

The judgment in the ejectment action was final and not open to assault collaterally, but subject to impeachment only through some form of direct attack. The appellate court was limited to a review of the interpleader decree; and it is hardly necessary to say that jurisdiction to review one judgment gives an appellate court no power to reverse or modify another and independent judgment. If respondent, in addition to appealing from the [interpleader] decree, had appealed from the [ejectment] judgment, the appellate court, having both cases before it, might have afforded a remedy * * * . But this course respondent neglected to follow.

This Court's rigorous application of *res judicata* in *Reed*, to the point of leaving one party in possession and the other party entitled to the rents, makes clear that this Court recognizes no general equitable doctrine, such as that suggested by the Court of Appeals, which countenances an exception to the finality of a party's failure to appeal merely because his rights are "closely interwoven" with those of another party. Indeed, this case presents even more compelling reasons to apply the doctrine of *res judicata* than did *Reed*. Respondents here seek to be the windfall beneficiaries of an appellate reversal procured by other independent parties, who have no interest in respondents' case, not a reversal in interrelated cases procured, as in *Reed*, by the same affected party. Moreover, in contrast to *Reed*, where it was unclear why no appeal was taken, it is apparent that respondents here made a calculated choice to forgo their appeals.

The Court of Appeals also rested its opinion in part on what it viewed as "simple justice." But we do not see the grave injustice which would be done by the application of accepted principles of *res judicata*. "Simple justice" is achieved when a complex body of law developed over a period of years is evenhandedly applied. The doctrine of *res judicata* serves vital public interests beyond any individual judge's ad hoc determination of the equities in a particular case. There is simply "no principle of law or equity which sanctions the rejection by a federal court of the salutary principle of *res judicata*." The Court of Appeals' reliance on "public policy" is similarly misplaced. This Court has long recognized that "[p]ublic policy dictates that there be an end of litigation; that those who have contested an issue shall be bound by the result of the contest, and that matters once tried shall be considered forever settled as between the parties." We have stressed that "[the] doctrine of *res judicata* is not a mere matter of practice or procedure inherited from a more technical time than ours. It is a rule of fundamental and substantial justice, 'of public policy and of private peace,' which should be cordially regarded and enforced by the courts * * * ." The language used by this Court half a century ago is even more compelling in view of today's crowded dockets:

The predicament in which respondent finds himself is of his own making * * * . [W]e cannot be expected, for his sole relief, to upset the general and well-established doctrine of *res judicata*, conceived in the light of the maxim that the interest of the state requires that there be an end to litigation—a maxim which comports with common sense as well as public policy. And the mischief which would follow the establishment of precedent for so disregarding this salutary doctrine against prolonging strife would be greater than the benefit which would result from relieving some case of individual hardship.

Respondents make no serious effort to defend the decision of the Court of Appeals. They do not ask that the decision below be affirmed. Instead, they conclude that the "the writ of certiorari should be dismissed as improvidently granted." In the alternative, they argue that "the district court's dismissal on grounds of *res judicata* should be reversed, and the district court directed to grant respondent's motion to remand to the California state court." In their view, *Brown I* cannot be considered *res judicata* as to their state-law claims, since *Brown I*

raised only federal-law claims and *Brown II* raised additional state-law claims not decided in *Brown I*, such as unfair competition, fraud, and restitution.

It is unnecessary for this Court to reach that issue. It is enough for our decision here that *Brown I* is *res judicata* as to respondents' federal-law claims. Accordingly, the judgment of the Court of Appeals is reversed, and the cause is remanded for proceedings consistent with this opinion.

It is so ordered.

JUSTICE BLACKMUN, with whom JUSTICE MARSHALL joins, concurring in the judgment.

While I agree with the result reached in this case, I write separately to state my views on two points.

First, I, for one, would not close the door upon the possibility that there are cases in which the doctrine of *res judicata* must give way to what the Court of Appeals referred to as "overriding concerns of public policy and simple justice." Professor Moore has noted: "Just as *res judicata* is occasionally qualified by an overriding, competing principle of public policy, so occasionally it needs an equitable tempering." But this case is clearly not one in which equity requires that the doctrine give way. Unlike the nonappealing party in *Reed*, respondents were not "caught in a mesh of procedural complexities." Instead, they made a deliberate tactical decision not to appeal. Nor would public policy be served by making an exception to the doctrine in this case; to the contrary, there is a special need for strict application of *res judicata* in complex multiple party actions of this sort so as to discourage "break-away" litigation. Finally, this is not a case "where the rights of appealing and non-appealing parties are so interwoven or dependent on each other as to require a reversal of the whole judgment when a part thereof is reversed."

Second, and in contrast, I would flatly hold that *Brown I* is *res judicata* as to respondents' state-law claims. Like the District Court, the Court of Appeals found that those state-law claims were simply disguised federal claims; since respondents have not cross-petitioned from that judgment, their argument that this case should be remanded to state court should be itself barred by *res judicata*. More important, even if the state and federal claims are distinct, respondents' failure to allege the state claims in *Brown I* manifestly bars their allegation in *Brown II*. The dismissal of *Brown I* is *res judicata* not only as to all claims respondents actually raised, but also as to all claims that could have been raised. Since there is no reason to believe that it was clear at the outset of this litigation that the District Court would have declined to exercise pendent jurisdiction over state claims, respondents were obligated to plead those claims if they wished to preserve them. Because they did not do so, I would hold the claims barred.