

DOCKET NO: HHD-CV23-6170988-S : SUPERIOR COURT
 KIMBERLY JAMES : J.D. OF HARTFORD
 V. : AT HARTFORD
 MAGDA RAMOS, ET AL : APRIL 23, 2024

**MEMORANDUM OF DECISION RE: DEFENDANT MAGDA RAMOS'S
 MOTION FOR SUMMARY JUDGMENT AND SANCTIONS (#109)**

INTRODUCTION


In the present action, the plaintiff property owner asserts claims for quiet title and trespass against the defendant, an abutting landowner, whom the plaintiff alleges improperly stored various items of personal property and cut down trees on the plaintiff's property. The defendant moves for summary judgment, claiming that the present action is identical to an action the plaintiff brought against her in 2015 that was dismissed, and that the plaintiff's claims are thus barred by the statute of limitations and the doctrines of res judicata and collateral estoppel. For the reasons set forth below, the motion for summary judgment is granted in its entirety.

FACTS AND PROCEDURAL HISTORY

The plaintiff, Kimberly James, filed a two-count complaint against the defendants, Magda Ramos and Carlos Ramos, on June 27, 2023. Count one seeks to quiet title as to defendant Magda Ramos. Count two alleges trespass against both defendants.¹ In count one of the complaint, the plaintiff alleges that her property, located in Bloomfield, Connecticut,

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¹ Defendant Carlos Ramos is not a party to the motion for summary judgment. Subsequent references in this memorandum to "the defendant" refer to defendant Magda Ramos only.

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abuts the defendant's property. The plaintiff alleges that immediately after she installed a fence on her property approximately ten feet north of the parties' common boundary line the defendant began storing wood, poles, vehicles, and other items of personal property along the fence and on the plaintiff's property. The plaintiff ordered a survey of her property in 2014 which confirmed that the defendant was storing personal property on, and had removed trees from, the plaintiff's property. The plaintiff alleges that she made written demand upon the defendant in May 2015 to remove the personal property from the plaintiff's property, which the defendant refused to do. The plaintiff also alleges that the defendant has continued to remove trees on the plaintiff's premises. Count two alleges that the defendants have trespassed on her property by refusing to remove personal property and unlawfully cutting down trees.

This is not the first time that the plaintiff has pursued these exact same claims against the defendant. See *James v. Ramos*, Superior Court, judicial district of Hartford, Docket No. CV-15-6061812-S (May 3, 2018, *Noble J.*) (2015 action). At the close of the plaintiff's evidence in the 2015 action the defendant moved for a directed verdict, which the court treated as a dismissal for failure to make out a prima facie case pursuant to Practice Book § 15-8. *Id.* The court granted the dismissal motion on the grounds of "lack of evidence upon which the court could provide a definitive, unambiguous and certain judgment." *Id.* The plaintiff's motion for a new trial was denied. *Id.*

In the present action, the defendant filed a motion for summary judgment and supporting memorandum on October 26, 2023,² alleging that: (1) the plaintiff's quiet title action is barred by the three year statute of limitations in General Statutes § 52-577, because the plaintiff knew of the facts giving rise to her claim as early as 2014 but did not commence the present action until 2023, some nine years later; and (2) the plaintiff's claims are barred by res judicata and collateral estoppel because the same claims and issues were resolved against her in the 2015 action.

On December 26, 2023, the plaintiff filed her objection to the motion for summary judgment, together with her opposition memorandum and affidavit. On January 9, 2024, the defendant filed her reply memorandum. The court conducted a remote hearing on the motion for summary judgment on April 1, 2024.

DISCUSSION

“Summary judgment is a method of resolving litigation when pleadings, affidavits, and any other proof submitted show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law” (Internal quotation marks omitted.) *Grenier v. Commissioner of Transportation*, 306 Conn. 523, 534-35, 51 A.3d 367 (2012). “In any action . . . any party may move for a summary judgment as to any claim or defense as a matter of right at any time if no scheduling order exists and the case has not been assigned for trial.” Practice Book § 17-44. “Summary judgment in favor of the defendant is properly granted if the defendant in its motion raises at least one legally

² The defendant submitted with her memorandum the affidavit of attorney Adam Swanson and two exhibits, the plaintiff's complaints from the 2015 action and the present action.

sufficient defense that would bar the plaintiff's claim and involves no triable issue of fact.” (Internal quotation marks omitted.) *Serrano v. Burns*, 248 Conn. 419, 424, 727 A.2d 1276 (1999).

I. Statute of Limitations

“Summary judgment may be granted where the claim is barred by the statute of limitations. . . . Summary judgment is appropriate on statute of limitations grounds when the material facts concerning the statute of limitations [are] not in dispute” (Citation omitted; internal quotation marks omitted.) *Rompney v. Safeco Ins. Co. of America*, 310 Conn. 304, 313, 77 A.3d 726 (2013). “[I]n the context of a motion for summary judgment based on a statute of limitations special defense, a defendant typically meets its initial burden of showing the absence of a genuine issue of material fact by demonstrating that the action had commenced outside of the statutory limitation period. . . .” *Cefaratti v. Aranow*, 321 Conn. 637, 645-46, 138 A.3d 837 (2016).

The defendant alleges that the plaintiff's quiet title action is barred by the three year tort statute of limitations in General Statutes § 52-577 because the date of the act or omission complained of, for purposes of calculating the statute of limitations, is June 11, 2014, and the present action was not commenced until 2023. In response, the plaintiff argues that the proper statute of limitations is the fifteen year statute of limitations for adverse possession claims in General Statutes § 52-575.

“The purpose of [a] statute of limitation . . . is . . . to (1) prevent the unexpected enforcement of stale and fraudulent claims by allowing persons after the lapse of a reasonable time, to plan their affairs with a reasonable degree of certainty, free from the

disruptive burden of protracted and unknown potential liability, and (2) to aid in the search for truth that may be impaired by the loss of evidence, whether by death or disappearance of witnesses, fading memories, disappearance of documents or otherwise.” (Internal quotation marks omitted.) *Bellemare v. Wachovia Mortgage Corp.*, 284 Conn. 193, 199, 931 A.2d 916 (2007).

“[W]hen a statute includes no express statute of limitations, we should not simply assume that there is no limitation period. Instead, we borrow the most suitable statute of limitations on the basis of the nature of the cause of action or of the right sued upon.” *Id.* “[F]or an action under a state statute that lack[s] an express limitations period, the courts look to analogous causes of action for which express limitations periods are available, either by statute or by case law.” (Internal quotation marks omitted.) *Vaccaro v. Shell Beach Condominium, Inc.*, 169 Conn. App. 21, 36, 148 A.3d 1123 (2016), cert. denied, 324 Conn. 917, 154 A.3d 1008 (2017).

The court in *Biondi v. TD Bank, N.A.*, Superior Court, judicial district of Ansonia-Milford, Docket No. CV-16-6020960-S (December 12, 2019, *Stevens J.*), stated that the “plaintiff’s quiet title count, alleging the invalidity of the mortgages because of the defendant’s tortious conduct, would be governed by either the three-year tort statute of limitations of § 52-577 or the six-year contract statute of limitations of General Statutes § 52-576.” While the court declined to specify which statute applied because the plaintiff’s actions were barred under either statute, the court reasoned that § 52-577 could apply in a quiet title action that alleged tortious conduct. *Id.*

General Statutes § 52-577 provides that “[n]o action founded upon a tort shall be brought but within three years from the date of the act or omission complained of.” “The three year limitation period of § 52-577, therefore, begins with the date of the act or omission complained of, not the date when the plaintiff first discovers an injury.” (Internal quotation marks omitted.) *LaBow v. Rubin*, 95 Conn. App. 454, 469, 897 A.2d 136, cert. denied, 280 Conn. 933, 909 A.2d 960 (2006). “When conducting an analysis under § 52-577, the only facts material to the trial court’s decision on a motion for summary judgment are the date of the wrongful conduct alleged in the complaint and the date the action was filed.” (Internal quotation marks omitted.) *Rickel v. Komaromi*, 144 Conn. App. 775, 782, 73 A.3d 851 (2013).

In the present case, the essence of the plaintiff’s quiet title action is that the defendant placed personal property on the plaintiff’s property and cut down her trees, acts predicated upon the defendant’s encroachment on the plaintiff’s property. The plaintiff’s trespass claim in count two incorporates by reference the same facts as alleged in count one. In determining what statute of limitations to apply the court must look for the “most analogous” cause of action, which in this case is trespass. Therefore, the three year statute of limitations in § 52-577 applies to the present quiet title action.

The plaintiff alleges that the defendant first placed her personal property on the plaintiff’s property on June 11, 2014. The plaintiff filed the present complaint on June 27,

2023, over nine years after the alleged wrongful conduct. Therefore, the present action is barred by the statute of limitations.³

II. Res Judicata and Collateral Estoppel

“[S]ummary judgment is an appropriate vehicle for raising a claim of res judicata . . .” (Citations omitted.) *Joe’s Pizza, Inc. v. Aetna Life & Casualty Co.*, 236 Conn. 863, 867 n.8, 675 A.2d 441 (1996). “Because res judicata or collateral estoppel, if raised, may be dispositive of a claim, summary judgment [is] the appropriate method for resolving a claim of res judicata.” *Jackson v. R. G. Whipple, Inc.*, 225 Conn. 705, 712, 627 A.2d 374 (1993).

The defendant argues that the plaintiff’s claim is also barred by res judicata and collateral estoppel because (1) the complaint in the 2015 action and the present action are identical and allege the same facts and transactions; (2) the court’s ruling in the 2015 action was a final judgment on the merits; (3) both the plaintiff and the defendant were parties to the 2015 action; and (4) the plaintiff had adequate opportunity to fully litigate the issues in the 2015 action. In response, the plaintiff argues that the 2015 action was not dismissed on the merits because the court did not decide the ultimate issue, the location of the property line.

“[T]he doctrine of res judicata, or claim preclusion, [provides that] a former judgment on a claim, if rendered on the merits, is an absolute bar to a subsequent action on the same claim The doctrine of res judicata applies if the following elements are satisfied: the identity of the parties to the actions are the same; the same claim, demand or

³ The plaintiff argues that the court should apply the fifteen year statute of limitations for adverse possession claims set forth in General Statutes § 52-575. The court disagrees; no party has asserted a claim for adverse possession in the present action.

cause of action is at issue; the judgment in the first action was rendered on the merits; and the parties had an opportunity to litigate the issues fully” (Internal quotation marks omitted.) *Wells Fargo Bank, National Assn. v. Doreus*, 218 Conn. App. 77, 83-84, 290 A.3d 921, cert. denied, 347 Conn. 904, 297 A.3d 198 (2023). “Res judicata, as a judicial doctrine . . . should be applied as necessary to promote its underlying purposes. These purposes are generally identified as being (1) to promote judicial economy by minimizing repetitive litigation; (2) to prevent inconsistent judgments which undermine the integrity of the judicial system; and (3) to provide repose by preventing a person from being [harassed] by vexatious litigation But by the same token, the internal needs of the judicial system do not outweigh its essential function in providing litigants a legal forum to redress their grievances. . . . The judicial doctrines of res judicata and collateral estoppel are based on the public policy that a party should not be able to relitigate a matter which it already has had an opportunity to litigate” (Internal quotation marks omitted.) *Bruno v. Geller*, 136 Conn. App. 707, 722-23, 46 A.3d 974, cert. denied, 306 Conn. 905, 52 A.3d 732 (2012).

“Before collateral estoppel applies there must be an identity of issues between the prior and subsequent proceedings. To invoke collateral estoppel the issues sought to be litigated in the new proceeding must be identical to those considered in the prior proceeding.” (Internal quotation marks omitted.) *Wiacek Farms, LLC v. Shelton*, 132 Conn. App. 163, 169, 30 A.3d 27 (2011), cert. denied, 303 Conn. 918, 34 A.3d 394 (2012).

“[C]ollateral estoppel operates to bar the reassertion of an issue already fully litigated, [while] res judicata precludes one from raising causes of action, facts or issues that either already were adjudicated or could have been litigated fully in a prior action

between the same parties or those in privity with them.” (Internal quotation marks omitted.) *Sellers v. Work Force One, Inc.*, 92 Conn. App. 683, 686, 886 A.2d 850 (2005). “An issue is actually litigated if it is properly raised in the pleadings or otherwise, submitted for determination, and in fact determined An issue is necessarily determined if, in the absence of a determination of the issue, the judgment could not have been validly rendered If an issue has been determined, but the judgment is not dependent upon the determination of the issue, the parties may relitigate the issue in a subsequent action.” (Emphasis omitted; internal quotation marks omitted.) *LaBow v. Rubin*, supra, 95 Conn. App. 461-62.

The plaintiff claims that summary judgment is inappropriate on res judicata and collateral estoppel grounds because the court in the 2015 action did not determine the boundary lines between the parties’ properties. The plaintiff’s contention is undermined by binding appellate law in this state. In *Rosenfield v. Cymbala*, 43 Conn. App. 83, 681 A.2d 999 (1996), the Appellate Court addressed the issue of whether a dismissal for failure to make out a prima facie case was a judgment on the merits for res judicata purposes. *Id.*, 85. The court concluded that the trial court had properly rendered summary judgment “because the judgment of dismissal rendered in the prior action should be treated as a judgment on the merits. . . .” *Id.*, 86. “A court’s decision to grant a motion for a judgment of dismissal for failure to make out a prima facie case is . . . a conclusion that a plaintiff has failed to sustain his burden of proof. . . .” *Id.*, 91. The failure to present a prima facie case cannot “be used as a shield to avoid the consequences of the application of the doctrine of res judicata.” *Rosenfield v. Cymbala*, supra, 43 Conn. App. 93.

The court finds that the parties, claims, and factual allegations of the complaints in the 2015 action and in the present action are identical. Moreover, the parties had the opportunity to fully litigate these claims and issues in the 2015 action. The plaintiff presented her case-in-chief at the trial in the 2015 action but failed to meet her burden, leading to the entry of a judgment of dismissal after the close of the plaintiff's evidence. The dismissal of the 2015 action for failure to make out a prima facie case is a final judgment on the merits. *Rosenfield v. Cymbala*, supra, 43 Conn. App. 91. Therefore, the plaintiff's claims in the present action are barred by res judicata and collateral estoppel.

III. Sanctions

The defendant also moved for sanctions in the form of attorney's fees pursuant to Practice Book § 1-25 based on the plaintiff's filing of a frivolous lawsuit. The defendant is ordered to file her evidence in support of the claim for attorney's fees within fifteen days of the date of this decision. The plaintiff shall file her opposition papers, if any, to the motion for sanctions within fifteen days of the defendant's submission, after which the defendant may claim the sanctions motion for a hearing.

CONCLUSION

For the foregoing reasons, the defendant's motion for summary judgment is granted in its entirety.

BY THE COURT



Rosen, J.

Checklist for Clerk

Docket Number:

HHD CV23-6170988

Case Name: James v. Ramos

Memorandum of Decision dated: 4/23/2024

File Sealed: Yes No X

Memo Sealed: Yes No X

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HHD-CV23-6170988-S

JAMES, KIMBERLY v. RAMOS, MAGDA Et Al

Prefix: HD6

Case Type: P20

File Date: 06/27/2023

Return Date: 07/11/2023

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Case Look-up

By Party Name
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 By Property Address

Information Updated as of: 04/23/2024

Case Information

Case Type: P20 - Property - Quiet Title/Discharge of Mortgage or Lien
Court Location: HARTFORD JD
List Type: No List Type
Trial List Claim:
Last Action Date: 02/09/2024 (The "last action date" is the date the information was entered in the system)

Short Calendar Look-up

By Court Location
 By Attorney/Firm Juris Number
 Motion to Seal or Close
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Court Events Look-up

By Date
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Disposition Information

Disposition Date:
Disposition:
Judge or Magistrate:

Legal Notices

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Understanding

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File Date: 08/09/2023

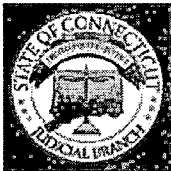
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File Date: 08/01/2023

Defendant



Comments

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