FOR PUBLICATION

IN THE SUPERIOR COURT
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

JIN YU GUAN CYFAY STEPHANSON, Plaintiff, v. **VICENTE I. TEREGEYO**, Defendant.	**SMALL CLAIMS NO. 04-0452** **ORDER DENYING DEFENDANT'S MOTION TO DISMISS**

I. Introduction and Procedural History

THIS MATTER came before the Court for a hearing on July 15, 2004, at 9:00 a.m., to consider Defendant Vicente I. Teregeyo's MOTION TO DISMISS SMALL CLAIMS. Plaintiff Jing Yu Guan Cyfay Stephanson appeared through counsel, S. Joshua Berger, Esq., and Defendant Vicente I. Teregeyo appeared *pro se*.

Teregeyo's Motion seeks dismissal of this small claims action, arguing that it is precluded by the *res judicata* effect of a final judgment in a previous civil action between the parties. *See Stephanson v. Teregeyo,* Civ. No. 01-0497 (N.M.I. Super. Ct. Mar. 16, 2004) (Decision and Final Order). As with this case, the prior civil action concerned an "Assignment of Lease" agreement between Teregeyo and Stephanson, which concerned a piece of property that had been mortgaged previously in favor of the U.S. Small Business Administration ("SBA").

An Amendment to the "Assignment of Lease" agreement provided that Stephanson could recover amounts that she had paid to the SBA on Teregeyo's behalf. However, in the Complaint of

the earlier civil action, Stephanson did not seek reimbursement for those amounts, but sought only remedies for a breach of the Assignment of Lease that allegedly occurred when Teregeyo refused to give Stephanson possession of the property, and to allow Stephanson to collect rental income. Specifically, Section I(B) the Amendment to the Assignment of Lease agreement between Teregeyo and Stephanson provided that Stephanson could require Teregeyo to "pay to Assignee [Stephanson] the amount of the delinquent payments plus penalties and interest made to SBA in total plus 12% per annum until paid in full."

In the Decision and Final Order of the prior civil action, and in the subsequent Judgment, this Court expressly recognized that the language of the Amendment to the Assignment of Lease agreement vested a right in Stephanson to pursue repayment for amounts paid by Stephanson to the SBA on Teregeyo's behalf, and that Stephanson could pursue repayment for amounts paid to the SBA in the future. However, the Court declined to grant Stephanson's post-judgment request for an amended judgment to include amounts she had paid to the SBA, because Stephanson did not state a claim for reimbursement in her initial Complaint, nor did she present any evidence at trial to substantiate those amounts.

Stephanson argues in defense of the instant Motion to Dismiss that she was under no obligation to include her claims for reimbursement of SBA payments made on Teregeyo's behalf in the earlier civil action, and that *res judicata* does not bar her from raising those claims now.

II. Issue

> Whether the instant small claims action for reimbursement of amounts paid by Stephanson to the SBA on Teregeyo's behalf pursuant to the amended Assignment of Lease agreement between Stephanson and Teregeyo is barred by the *res judicata* effect of the judgment in the earlier civil action of *Stephanson v. Teregeyo,* Civ. No. 01-0497 (N.M.I. Super. Ct. Mar. 16, 2004) (Decision and Final Order).

III. Analysis

The Commonwealth Supreme Court has stated the general rule on the doctrine of *res judicata* as follows:

> [W]hen a court of competent jurisdiction has entered a final judgment on the merits of a cause of action, the parties to the suit and their privies are thereafter bound "not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose." The judgment puts an end to the cause of action which cannot again be brought into litigation between the parties upon any ground whatever, absent fraud or some other factor invalidating the judgment.

Rosario v. Camacho, 2001 MP 3 ¶ 49 and *Transamerica (Saipan) Corp. v. Wabol*, 199 MP 1 ¶ 10, both (*citing Santos v. Santos*, 3 N.M.I. 39, 48 (1992)). Concerning the *scope* of claims precluded by *res judicata*, the Commonwealth Supreme Court has further stated that:

> [t]he *res judicata* effect of a prior judgment depends on the scope of the cause of action or claim in that suit. The process of defining the claim or cause of action is thus aimed at defining the matters that both might and *should* have been advanced in the first litigation. Under res judicata, 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.

Santos v. Santos, 3 N.M.I. 39, 49 (1992) (internal citations and quotations omitted) (*citing* CHARLES WRIGHT, ET AL., FEDERAL PRACTICE AND PROCEDURE § 4406 at 45 (1981) and *quoting Allen v. McCurry*, 449 U.S. 90, 94, 101 S. Ct. 411, 414, 66 L. Ed. 2d 308, 313 (1980))

The RESTATEMENT (SECOND) OF JUDGMENTS describes the general *res judicata* rule of merger as follows:

> When a valid and final personal judgment is rendered in favor of the plaintiff:
>
> (1) The plaintiff cannot thereafter maintain an action **on the original claim or any part thereof**, although he may be able to maintain an action upon the judgment; and
>
> (2) In an action upon the judgment, the defendant cannot avail himself of defenses he might have interposed, or did interpose, in the first action.

RESTATEMENT (SECOND) OF JUDGMENTS § 18 (1982) ("Judgment for Plaintiff -- The General Rule of Merger") (emphasis added). The RESTATEMENT further provides that "[a] valid and final personal

judgment rendered in favor of the defendant bars another action by the plaintiff **on the same claim**." RESTATEMENT (SECOND) OF JUDGMENTS § 19 (1982) ("Judgment for Defendant -- The General Rule of Bar") (emphasis added). The RESTATEMENT'S definition of claim with respect to these two sections reflects the widely-adopted "transactional" approach to *res judicata*:

> (1) When a valid and final judgment rendered in an action extinguishes the plaintiff's claim pursuant to the rules of merger or bar (see §§ 18, 19), **the *claim* extinguished includes all rights of the plaintiff to remedies against the defendant with respect to all or any part of the transaction, or series of connected transactions, out of which the action arose.**
>
> (2) What factual grouping constitutes a "transaction", and what groupings constitute a "series", are to be determined pragmatically, giving weight to such considerations as **whether the facts are related in time, space, origin, or motivation, whether they form a convenient trial unit**, **and whether their treatment as a unit conforms to the parties' expectations or business understanding or usage**.

Restatement (Second) of Judgments § 24 (1982)[1] ("Dimensions of 'Claim' for Purposes of Merger or Bar -- General Rule Concerning 'Splitting'") (emphasis added); *see also Taman v. Marianas Pub. Land Corp.*, 4 N.M.I. 287, 291 (1995).

In consideration of this language, the issue now before the Court is whether the rights to remedies that Stephanson requests in this small claims action, that is to be reimbursed for amounts paid to the SBA on Teregeyo's behalf pursuant to an Amendment to the Assignment of Lease agreement, were part of the transaction or series of transactions out of which the previous cause of action arose. In determining this, the Court must consider whether the facts of the two claims are related in time, space, origin, or motivation; whether they form a convenient trial unit; and whether their treatment as a unit conforms to the parties' expectations or business understanding or usage.

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[1] Stephanson cites to Comment "h" to Section 24 of the RESTATEMENT (SECOND) OF JUDGMENTS for the proposition that a plaintiff who has a number of claims against a defendant is under no compulsion to join them in a single action. Comment "h" states:

> *Joinder of multiple claims.* As provided in this Section, a plaintiff who brings an action upon part of a claim and succeeds or loses on the merits may not sue to recover upon the rest of the claim. Thus the plaintiff is under some compulsion not to split a claim. **There is no like compulsion on a plaintiff who has a number of claims against a defendant to join them in a single action; he may join them if he wishes, but he is not obliged to do so out of fear that he will lose any claims that he omits to join. Joinder of multiple claims is permissive, not compulsory.** Rule 18(a) of the FEDERAL RULES OF CIVIL PROCEDURE is typical. It provides: "*Joinder of claims.* A party asserting a claim to relief as an original claim, counterclaim, cross-claim, or third-party claim, may join, either as independent or as alternate claims, as many claims, legal, equitable, or maritime, as he has against an opposing party."

RESTATEMENT (SECOND) OF JUDGMENTS, § 24, cmt. h (1982) (emphasis added). As noted above, Section 24 provides that the "claim" extinguished by the *res judicata* rules of merger and bar "includes all rights of the plaintiff to remedies against the defendant with respect to all or any part of the transaction, or series of connected transactions, out of which the action arose." RESTATEMENT (SECOND) OF JUDGMENTS § 24(1) (1982). Therefore, in order to read Comment "h" in a manner that is consistent with Section 24 itself, the Court understands Comment "h" to say that a plaintiff is not compelled to join additional claims that pursue rights to remedies against the defendant that are not part of the transaction, or series of connected transactions, out of which the current action arose. Similarly, although Com. R. Civ. P. 18(a) does not compel a party to join all of his or her "claims" against another in a single action, it must be read in light of the longstanding legal doctrine of *res judicata*. *See Headley v. Bacon*, 828 F.2d 1272, 1275 (8th Cir. 1987) (holding that, even though the comparable language of FED. R. CIV. P. 18(a) is *permissive*, *res judicata* may still act to bar claims that are not joined). If a party omits claims that are part of the transaction, or series of connected transactions, out of which their initial action arose, that party risks having the omitted claims barred.

In the past, the RESTATEMENT OF JUDGMENTS endorsed the position that ordinarily, all breach of contract claims derived from a single contract will be treated as a single "cause of action" for *res judicata* purposes. In particular, the 1942 version of the RESTATEMENT provided:

> Where a party to a single indivisible contract has committed *two or more breaches of contract*, and the other party brings an action against him for one or more of the breaches, *the judgment*, whether for the plaintiff or for the defendant, *precludes the plaintiff from maintaining thereafter an action for any breach of the contract committed by the defendant before the commencement of the action*. ***All the breaches of contract prior to the commencement of the suit are treated as a single cause of action.***

RESTATEMENT OF JUDGMENTS § 62 cmt. h (1942) (emphasis added).[2] With the adoption in 1980 of the RESTATEMENT (SECOND) OF JUDGMENTS, the American Law Institute abandoned this rule, in favor of implementing the transactional analysis that is now contained at Section 24, *supra*. Given this historical background, the Court recognizes that the transactional approach to *res judicata* has essentially superceded the earlier "bright line" test regarding the splitting of contractual claims,[3] and that claims for breach of an individual contract may or may not be grouped together as a single cause of action for *res judicata* purposes, depending on the particular facts of a given case.

Applying the transactional analysis to the facts of this case, the Court finds that this claim is not so related in terms of time, origin or motivation to the facts at issue in the previous civil action to warrant the application of *res judicata*. Also, considering the continuing nature of Teregeyo's duty to reimburse Stephanson for amounts paid to the SBA, the parties would not necessarily have expected these claims to be raised in the same case. Although it may have been more convenient for the issues of this case to have been tried in the previous civil action, the two actions involve

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[2] Some courts have continued to endorse this position. *See Petromanagement Corp. v. Acme-Thomas Joint Venture*, 835 F.2d 1329 (10th Cir. 1988); *Kowalski v. Chicago Tribune Co.*, Nos. 88-C-321, 88-C-172, 1990 U.S. Dist. LEXIS 3812 (N.D. Ill. Apr. 4, 1990).

[3] Even the rule under the 1942 version of the RESTATEMENT OF JUDGMENTS was not entirely set in stone, however, as it contained an exception which provided that breaches of *divisible* contracts could be brought separately. RESTATEMENT OF JUDGMENTS § 62 cmt. i (1942).

separate breaches of separate provisions of the Assignment of Lease agreement, and those provisions serve different purposes. Also, the claims underlying these cases are premised on a different set of evidentiary facts and thus, there is no danger that judicial resources will be wasted in reintroducing the same evidence, or in relitigating the same issues.

IV. Conclusion

For the foregoing reasons, Stephanson's small claims action for reimbursement of amounts paid to the SBA on Teregeyo's behalf is not barred by *res judicata*, and therefore Teregeyo's MOTION TO DISMISS is **DENIED**.

SO ORDERED this 15th day of July 2004.

/s/
RAMONA V. MANGLONA, Associate Judge