

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Solomon T. Sheridan,	:	
Plaintiff-Appellant,	:	
Solomon D. Sheridan et al.,	:	No. 12AP-544
Plaintiffs-Appellees,	:	(C.P.C. No. 11CV-6709)
v.	:	(REGULAR CALENDAR)
Metropolitan Life Insurance Co.,	:	
Defendant-Appellee.	:	

D E C I S I O N

Rendered on February 12, 2013

Solomon T. Sheridan, pro se.

*Manchester, Bennett, Powers & Ullman, and C. Scott Lantz,
for appellee.*

APPEAL from the Franklin County Court of Common Pleas

McCORMAC, J.

{¶ 1} Plaintiff-appellant, Solomon T. Sheridan, and his two sons, Solomon D. and Shawn D. Sheridan (collectively "the Sheridans"), commenced an action in the Franklin County Court of Common Pleas against Metropolitan Life Insurance Company, defendant-appellee ("MetLife"). In their complaint of June 1, 2011, the Sheridans commenced an action entitled "Contractual Dispute" against MetLife asking the court to find MetLife grossly unprofessional and negligent in the handling of a group life policy. The Sheridans further requested the court to issue a declaratory order determining that

Deborah Sheridan's coverage ended December 18, 1992 at midnight. Finally, they requested 50 million dollars in monetary restitution.

{¶ 2} On June 15, 2012, the trial court issued a decision and entry sua sponte dismissing the above case on grounds that it was barred by res judicata and the statute of limitations, which is set forth in R.C. 2305.06. Final judgment was rendered for appellee.

{¶ 3} Appellant assert the following assignments of error:

FIRST ASSIGNMENT OF ERROR:

THE TRIAL COURT COMMITTED [REVERSIBLE] ERROR IN VIOLATION OF PLAINTIFF'S U.S. CONSTITUTIONAL RIGHTS AND DUE PROCESS OF LAW.

SECOND ASSIGNMENT OF ERROR:

THE TRIAL COURT COMMITTED REVERSIBLE ERROR ASSERTING RES JUDICATA TO DENY GRANTING PLAINTIFF(S) COMPLAINT AND/OR DEFAULT JUDGMENT, CONTRARY TO RC §2305.19.

THIRD ASSIGNMENT OF ERROR:

THE TRIAL COURT COMMITTED REVERSIBLE ERROR ASSERTING A STATUTE OF LIMITATIONS BARS PLAINTIFF'S COMPLAINT. CONTRARY TO RC. §2305.06 CONTRACTS IN WRITING AND LAW.

{¶ 4} An abbreviated history of the case as pertinent to the errors alleged in this appeal are as follows. Plaintiff Solomon T. Sheridan was found guilty of the murder of his wife Deborah Sheridan and sentenced to prison where he is still incarcerated. His deceased wife was allegedly employed by the Ohio Bureau of Workers' Compensation ("bureau"). She allegedly was insured by MetLife through a group life policy.

{¶ 5} The Sheridans' first action was filed in the Franklin County Court of Common Pleas on August 10, 2005 where they also named MetLife as a defendant and made similar contractual allegations. That case was dismissed on December 8, 2005 based on lack of subject-matter jurisdiction.

{¶ 6} A second complaint pertinent to the same issues and of one of the defendants from the first action was filed on May 1, 2007 in the common pleas court. The

court dismissed that complaint sua sponte on June 6, 2008 based on res judicata. That case was appealed to this court and we reversed and remanded the case back to the common pleas court in a decision of April 16, 2009, *Sheridan v. Metropolitan Life Ins. Co.*, 10th Dist. No. 08AP-579, 2009-Ohio-1808. In that case, the Sheridans referred to testimony from the bureau (Deborah Sheridan's employer) to indicate that, upon her retirement, her life insurance should have been switched from her name to the name of her husband, Solomon T. Sheridan. That case was dismissed pursuant to Civ.R. 12(B)(6) as not stating a claim upon which relief could be granted. The trial court entered judgment granting MetLife's motion to dismiss and the case was dismissed with prejudice. Appellant did not appeal this judgment.

{¶ 7} On June 15, 2012, the trial court issued a decision and entry sua sponte dismissing the case at hand on grounds that the action was barred by res judicata and the statute of limitations set forth in R.C. 2305.06.

{¶ 8} Appellant first alleges that the trial court erred in violation of his U.S. Constitutional rights and due process of law arguing that due process requires every party to an action to be afforded an opportunity to be heard after reasonable notice of the claim. He further contends that the "right to be heard embraces not only the right to present evidence, but also a reasonable opportunity to know the claims of the opposing party and to meet them." (Complaint, at ¶ 19.) Appellant argues constitutional propositions do not apply in this case. A court may dismiss a complaint on its own motion without notice where the complaint is frivolous or the claimant obviously cannot possibly prevail on the facts alleged in the complaint. *State ex rel. Edwards v. Toledo City School Dist. Bd. of Edn.*, 72 Ohio St.3d 106 (1995). There is no violation of appellant's Fourteenth Amendment rights if the complaint is clearly barred by the applicable statute of limitations and/or res judicata. As we will discuss shortly hereafter, the trial court did not err by holding that appellant's complaint is barred by res judicata and by the applicable statute of limitations.

{¶ 9} Appellant's first assignment of error is overruled.

{¶ 10} Appellant's claims asserted in this action are identical to those asserted in the prior action of 2007, which case was dismissed with prejudice on May 26, 2010. Since that case was not appealed, it became a final judgment. The doctrine of res judicata

bars the present action, as the action was irrevocably barred by virtue of being finally decided.

{¶ 11} Appellant's second assignment of error is overruled.

{¶ 12} In appellant's third assignment of error, he asserts that the trial court erred by holding that his complaint was barred by the applicable statute of limitations. Appellant correctly asserts that an action based on a written contract is subject to a 15-year statute of limitations. Appellant admits that more than 15 years had elapsed when the present action was filed, but insists that he is entitled to an extension of that 15 years by use of the provisions of R.C. 2305.19, the saving statute. He states that the action herein was filed less than one year after the case which was dismissed May 26, 2010. However, R.C. 2305.19 does not apply to the action herein. It allows an action to be refiled within one year of the date that a previous action was dismissed "otherwise than upon the merits." Since the prior action was dismissed with prejudice on May 26, 2010, it was a merit dismissal. Thus, the present action was not commenced within the 15-year extension of the statute of limitations for contract actions.

{¶ 13} Appellant's third assignment of error is overruled.

{¶ 14} Appellant's three assignments of error are overruled, and the judgment of the Franklin County Court of Common Pleas is affirmed.

Judgment affirmed.

BRYANT and TYACK, JJ., concur.

McCORMAC, J., retired, formerly of the Tenth Appellate District, assigned to active duty under the authority of the Ohio Constitution, Article IV, Section 6(C).