

**Commonwealth of Kentucky**

**Court of Appeals**

NO. 2009-CA-002404-MR

RANDY SPRINKLES

APPELLANT

v.

APPEAL FROM KNOX CIRCUIT COURT  
HONORABLE GREGORY A. LAY, JUDGE  
ACTION NO. 09-CI-00502

KATHY MILLS

APPELLEE

OPINION  
AFFIRMING

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BEFORE: CAPERTON AND THOMPSON, JUDGES; LAMBERT,<sup>1</sup> SENIOR JUDGE.

THOMPSON, JUDGE: Randy Sprinkles, *pro se*, appeals the Knox Circuit Court's *sua sponte* order dismissing his quiet title action. We affirm.

On September 15, 2009, Sprinkles filed an action to quiet title and to recover real property. In his complaint, he alleged that Kathy Mills, his sister, fraudulently obtained his power of attorney by deceiving him into believing that

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<sup>1</sup> Senior Judge Joseph E. Lambert sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

she would administer his estate, including rental property, in a manner where he would receive financial support during his pending incarceration.<sup>2</sup> Sprinkles alleged that Mills agreed to deposit a portion of the proceeds from rental income into his prison account in exchange for her residing at his residence.

According to Sprinkles's complaint, Mills failed to fulfill her contractual obligation because she did not provide him financial assistance from the rental income from his property. He further alleged that Mills was improperly holding his property out as her own and had acquired loans by using the property as collateral. He alleged that he did not grant Mills the authority to incur debt against the property or to hold the property out as her own.

On September 18, 2009, the trial court issued a *sua sponte* order dismissing Sprinkles's complaint. The trial court found that Sprinkles's complaint involved the same parties, same transactions, and was decided in a prior action brought by Sprinkles and, thus, was barred by the doctrine of *res judicata*. The trial court referenced Sprinkles's prior case, 07-CI-00297, which was dismissed for failure to state a claim for which relief could be granted. The trial court ruled that Sprinkles's case was identical to his prior case and, thus, was precluded.

Sprinkles contends that the trial court erred by dismissing his action because his case was not barred by the doctrine of *res judicata*. While Sprinkles acknowledges that the facts underlying his previous action are the same as in his instant action, he argues that the operative legal issue is not identical. He contends

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<sup>2</sup> Sprinkles allegedly made this agreement while criminal proceedings were pending against him. He was subsequently convicted of criminal charges and is now incarcerated in a state prison.

that his current complaint was to quiet title to his property as opposed to his prior action for breach of contract. Thus, he contends that the trial court's order dismissing his complaint to quiet title should be reversed.

The doctrine of *res judicata* bars subsequent actions between the same parties and their privies on a cause of action that was previously decided upon its merits. *Buis v. Elliott*, 142 S.W.3d 137, 139 (Ky. 2004). *Res judicata* generally consists of two parts: 1) claim preclusion bars a party from relitigating a previously adjudicated action and entirely bars a new lawsuit on the same cause of action; and 2) issue preclusion precludes a party from relitigating any issue actually litigated and finally decided in an earlier action. *Id.* at 140.

Additionally, "a final judgment precludes subsequent litigation not only of those issues upon which the court was required to form an opinion and pronounce judgment but also of matters included within those issues and matters that, with the exercise of reasonable diligence, might have been raised at the time." *Whittaker v. Cecil*, 69 S.W.3d 69, 72 (Ky. 2002). While a litigant cannot be barred from bringing an action if a different question of law is presented relative to his prior action as stated in *Harrod v. Irvine*, 283 S.W.3d 246, 250 (Ky.App. 2009), the action cannot involve issues that could have been presented in the previous action. *Whittaker*, 69 S.W.3d at 72.

Sprinkles filed an action in 2007 for breach of an oral contract and outrageous conduct. His action was based on his allegation that his sister failed to fulfill her obligations under the parties' alleged oral agreement. Sprinkles sought

monetary damages, including compensatory and punitive, of \$790,001. After the trial court dismissed this action for failure to state a claim for which relief could be granted, Sprinkles filed an appeal to this Court in Case No. 2008-CA-000281-MR. On November 20, 2008, this Court dismissed the appeal due to his failure to timely file a notice of appeal.

In September 2009, Sprinkles filed an action to quiet title to his real property. While reciting the details of his alleged oral agreement with his sister, he alleged that his sister was acting as if she owned the property and was subjecting the property to loan encumbrances. He alleged that his sister was not authorized to take any action exhibiting ownership of his property. Further, he alleged that the basis of his claim was his sister's fraudulent procurement of his power of attorney. He then requested that the trial court issue a judgment quieting title in his favor.

After reviewing these facts, we conclude that Sprinkles was precluded from bringing his action pursuant to the doctrine of *res judicata*. While Sprinkles argues that his quiet title claim is unique to his former action, his claim could have been presented had he exercised reasonable diligence in litigating his first case. Sprinkles's complaint is clearly derivative and connected to his and his sister's alleged contract in contemplation of his then-impending incarceration. The alleged agreement and the matters connected to the purported agreement were litigated in Sprinkles's first action and he cannot now seek to litigate related issues. Thus, we conclude that his action is barred by the doctrine of *res judicata*.

We further observe that Sprinkles's quiet title action was an improper action because such actions do not apply to the facts of this case. In general, a quiet title action involves the litigating of property ownership and lines between parties advocating adverse claims. *Vanhoose v. Williams*, 396 S.W.2d 784, 785 (Ky. 1965); *Turner v. Deaton*, 220 Ky. 154, 294 S.W. 1063, 1065 (1927) (quiet title actions are brought when a plaintiff wishes to judicially establish a superior title adverse to the claim asserted by the defendant). However, Sprinkles alleged that his sister fraudulently acquired his power of attorney. Based on these facts, the proper action to file was for fraud, not for quieting title.

However, we cannot review Sprinkles's appeal to determine if an action for fraud would be viable. A party must plead fraud with specificity, including the time, place, and substance of the fraudulent conduct. *Keeton v. Lexington Truck Sales, Inc.*, 275 S.W.3d 723, 726 (Ky.App. 2008). Sprinkles's allegation of fraudulent conduct in his complaint was insufficient to meet our specificity standard. *Id.* Moreover, it appears that Sprinkles's fraud claim would be barred by the doctrine of *res judicata* because he could have brought the claim in his prior action. Therefore, Sprinkles is not entitled to any relief.

There may be merit to Sprinkles's claim that his sister fraudulently induced him to enter into an oral agreement in contemplation of his pending incarceration. Moreover, we have not overlooked that Sprinkles's incarceration and lack of funds have prevented him from obtaining legal counsel to pursue a civil case against his sister and that an injustice may remain uncorrected. Because

*pro se* litigants lack legal training, they have sometimes been held to less stringent standards. *Watkins v. Fannin*, 278 S.W.3d 637, 643 (Ky.App. 2009) (citing *Haines v. Kerner*, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972)). However, just as *pro se* litigants are required to follow the Kentucky Rules of Civil Procedure, *pro se* litigants must adhere to the common law doctrine precluding repetitious litigation. *See Watkins*, 278 S.W.3d at 643. Therefore, Sprinkles's *pro se* status does not excuse his failure to properly assert his claim.

For the foregoing reasons, the Knox Circuit Court's *sua sponte* order dismissing Sprinkles's quiet title action is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Randy Sprinkles, *Pro Se*  
LaGrange, Kentucky

BRIEF FOR APPELLEE:

Scott M. Webster  
London, Kentucky