

STATE OF MICHIGAN
COURT OF APPEALS

IONIA M. RICHARD,

Plaintiff-Appellant,

v

NORTHVILLE PSYCHIATRIC, KATHLEEN
WILLIAMS, DEPARTMENT OF COMMUNITY
HEALTH, and THOMAS ADAMS,

Defendants-Appellees.

UNPUBLISHED

March 23, 2004

No. 244918

Ingham Circuit Court

LC No. 02-000525-CK

Before: Sawyer, P.J., and Saad and Bandstra, JJ.

PER CURIAM.

Plaintiff appeals as of right from the circuit order granting summary disposition in favor of defendant Department of Community Health (DCH) and dismissing plaintiff's complaint. We affirm.

Plaintiff filed identical complaints alleging various contract and discrimination claims in both the Ingham Circuit Court and the Court of Claims. The Court of Claims dismissed plaintiff's complaint on DCH's motion for summary disposition. Instead of appealing that decision, plaintiff pursued this case in the circuit court. After the circuit court also dismissed her claims, plaintiff filed this appeal.

Plaintiff argues that the circuit court erred in dismissing her complaint on the merits and in relying on the Court of Claims decision. But she fails to recognize the dispositive issue. The Court of Claims decision barred plaintiff from relitigating the same cause of action in the circuit court under the doctrine of res judicata.

"[T]he doctrine of res judicata is applicable to a second suit involving the same cause of action as that raised in the first suit" *Braxton v Litchalk*, 55 Mich App 708, 717; 223 NW2d 316 (1974). The doctrine of res judicata is summarized in *Dart v Dart*, 460 Mich 573, 586; 597 NW2d 82 (1999), as follows:

Res judicata bars a subsequent action between the same parties when the evidence or essential facts are identical. A second action is barred when (1) the first action was decided on the merits, (2) the matter contested in the second action was or

could have been resolved in the first, and (3) both actions involve the same parties or their privies. [Citations omitted.]

“A judgment is considered to be a determination on the merits, and thereby triggers the doctrine of res judicata upon relitigation, even if the action was resolved by a summary or default judgment.” *Detroit v Nortown Theatre, Inc.*, 116 Mich App 386, 392; 323 NW2d 411 (1982), citing *Braxton*, *supra*.

“[T]he [most] difficult aspect of res judicata is [often] determining if the trials involve the same cause of action.” *Nortown Theatre, Inc.*, *supra* at 393. But here, plaintiff filed two identical complaints, so there can be no dispute that the two cases involve the same cause of action. Both cases also involve the same parties, and the Court of Claims rendered a final judgment on the merits when it granted DCH’s motion for summary disposition. As a result, the doctrine of res judicata barred plaintiff’s attempt to relitigate these same claims in the circuit court after the Court of Claims had dismissed them.

Plaintiff also argues that the circuit court erred by dismissing her claims against defendants Adams and Williams for improper service of process. But that did not happen. Although the circuit court discussed service at the motion hearing, it specifically stated that it would not decide that question. Instead, the court dismissed plaintiff’s cause of action, including the claims against defendants Adams and Williams, on an independent basis. There is no lower court decision regarding the adequacy of service of process for this Court to review.

We affirm.

/s/ David H. Sawyer
/s/ Henry William Saad
/s/ Richard A. Bandstra