

RENDERED: March 6, 1998; 2:00 p.m.  
NOT TO BE PUBLISHED

NO. 96-CA-2805-MR

KAREN ANN VOSSLER

APPELLANT

V. APPEAL FROM KENTON CIRCUIT COURT  
HONORABLE DOUGLAS M. STEPHENS, JUDGE  
ACTION NO. 96-CI-1327

RICHARD JANSEN and STEPHANIE RENAKER-JANSEN

APPELLEES

**OPINION**  
**AFFIRMING**

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BEFORE: COMBS, DYCHE, and HUDDLESTON, Judges.

COMBS, JUDGE: The appellant, Karen Ann Vossler, appeals from the order of the Kenton Circuit Court dismissing her complaint against the appellees, Richard Jansen and Stephanie Renaker-Jansen (the Jansens). Finding no error, we affirm the order of the circuit court.

On July 15, 1996, Vossler filed an action in the Kenton Circuit Court seeking to have the Jansens ejected from the property located at 506 East 21st Street, Covington, Kentucky. She also sought to recover that property. On September 25, 1996,

the Kenton Circuit Court ordered Vossler's complaint dismissed with prejudice. The court held that the issues raised anew had already been litigated and disposed of by judgment of the Kenton Circuit Court in Case No. 94-CI-00807. The court also ordered Vossler to pay the Jansens' attorney's fees and any court costs they may have incurred. In Case No. 94-CI-00807, Vossler had filed a complaint alleging that the Jansens' title to the property on 21st Street was defective and that she was the legal owner. However, on March 29, 1996, the Kenton Circuit Court dismissed Vossler's claim and declared the Jansens' deed valid and enforceable. Vossler did not appeal from the circuit court's judgment in Case No. 94-CI-00807; rather, she initiated the current action, which lead to this appeal.

The doctrine of res judicata holds that a judgment on the merits in a prior suit involving the same parties or their privies precludes a subsequent suit based upon the same cause of action. Napier v. Jones By and Through Reynolds, Ky. App., 925 S.W.2d 193 (1996). For the doctrine of res judicata to apply, both identity of parties and identity of issues must exist, and the prior action must have resulted in a judgment on the merits. Id., at 195. Furthermore, res judicata applies "not only to the issues disposed of in the first action, but to every point which properly belonged to the subject of the litigation of the first action." Egbert v. Curtis, Ky. App., 695 S.W.2d 123 (1985).

Vossler's second suit against the Jansens centered around her claim that she was the legal owner of the property on

21st Street -- as did the first action against the Jansens. The issues raised in the second suit are the same issues disposed of by the circuit court's judgment in the earlier action. Moreover, issues regarding the validity of the Jansens' title and Vossler's claim of ownership "properly belonged" in the earlier litigation and should have been raised in the first action. In the case sub judice, the identity of the parties and the issues are the same as in the first action, which produced a judgment on the merits. Thus, Vossler's second action is wholly barred by the doctrine of res judicata. The circuit court properly dismissed Vossler's complaint.

For the foregoing reasons, we affirm the order of the Kenton Circuit Court dismissing Vossler's complaint and ordering her to pay the Jansens' attorney's fees and court costs.

HUDDLESTON, JUDGE, CONCURS.

DYCHE, JUDGE, CONCURS IN RESULT AND FILES A SEPARATE OPINION.

DYCHE, JUDGE, CONCURRING: I concur with the opinion of the majority. I would, however, hold that this appeal is frivolous and require appellant to pay appellee's attorney fees and costs for defending same. CR 73.02(4).

BRIEFS FOR APPELLANT *PRO SE*:

Karen Ann Vossler  
Fort Thomas, KY

BRIEF FOR APPELLEES:

Robert W. Carran  
Covington, KY