

Reversed and Remanded and Memorandum Opinion filed August 1, 2023.



In The

Fourteenth Court of Appeals

NO. 14-22-00341-CV

GIZATE Y. ADELA, Appellant

V.

HAMILTON COURT CONDOMINIUM, Appellee

**On Appeal from the County Civil Court at Law No. 4
Harris County, Texas
Trial Court Cause No. 1113076**

MEMORANDUM OPINION

A tenant (appellant), acting pro se, sued his former landlord (appellee). Following this court's reversal of the trial court's dismissal for lack of jurisdiction, *see Adela v. Hamilton Court Condominiums*, No. 14-18-00998-CV, 2020 WL 548192 (Tex. App.—Houston [14th Dist.] Feb. 4, 2020, no pet.) (mem. op.), the trial court granted appellee's motion for summary judgment based on res judicata. We reverse and remand.

A. Standard of Review and Legal Principles

In a traditional motion for summary judgment, the movant must show that no genuine dispute exists as to any material fact such that the movant is entitled to judgment as a matter of law. *Eagle Oil & Gas Co. v. TRO-X, L.P.*, 619 S.W.3d 699, 705 (Tex. 2021). A defendant may obtain summary judgment by conclusively establishing the elements of an affirmative defense such as res judicata. *See id.* We review de novo a trial court’s decision to grant a motion for summary judgment, viewing the evidence in the light most favorable to the nonmovant and indulging every reasonable inference against the movant. *Id.*

The elements of res judicata are: “(1) a prior final judgment on the merits by a court of competent jurisdiction; (2) identity of parties or those in privity with them; and (3) a second action based on the same claims that were raised or could have been raised in the first action.” *Id.* at 705–06 (quoting *Citizens Ins. Co. of Am. v. Daccach*, 217 S.W.3d 430, 449 (Tex. 2007)). A final judgment in an action extinguishes the right to bring suit on the “transaction,” or series of connected transactions, out of which the action arose. *Id.* at 705. “When determining whether a set of facts forms a transaction, the determination is to be made 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 trial unit conforms to the parties’ expectations or business understanding or usage.” *Id.* (quotations omitted).

B. Background

Appellee filed a motion for summary judgment based on its affirmative defense of res judicata. Appellee argued that appellant filed “two separate lawsuits both of which relate to the same landlord/tenant transaction,” and that one of the lawsuits resulted in a final judgment in appellant’s favor. Appellee attached as

evidence three documents: (1) appellant’s live petition from the current lawsuit (Exhibit A); (2) a certified copy of a final judgment in Cause No. 1099263 (Exhibit B); and (3) a certified copy of a notarized satisfaction of judgment in Cause No. 1099263 (Exhibit C). Exhibit A describes appellant’s experience living at appellee’s property from 2014 to 2016 when appellant was evicted and the ensuing litigation. Exhibit A alleges various claims but does not refer to a security deposit or lawsuit involving a security deposit. Exhibit B recites that appellee “breached its contract with [appellant] by failing to refund his security deposit,” and awards appellant \$250 in damages.

Appellant filed a “motion to deny defendant’s motion for summary judgment,” arguing among other things that “Cause No: 1099263 has no legal and factual connection with the current case under Case No: 111307[6].” On appeal, appellant contends in his first issue that the trial court rendered a judgment in violation of the law. Under a section titled “Defendant’s Motion for Summary Judgment,” appellant contends that “the final judgment Exhibit B is absolutely inapplicable to establish the doctrine of res judicata because it was not re-litigated, and its cause of action was different.”

C. Analysis

Generally, the movant for summary judgment based on res judicata should attach both the petition and judgment from the prior action so the trial court can properly determine whether the nonmovant’s claim is one that was or could have been brought in the prior action. *See Gray v. Kirkwood S. Comm.*, No. 01-02-00145-CV, 2003 WL 21513509, at *3 (Tex. App.—Houston [1st Dist.] July 3, 2003, no pet.) (mem. op.); *see also Anders v. Mallard & Mallard, Inc.*, 817 S.W.2d 90, 94 (Tex. App.—Houston [1st Dist.] 1991, no writ) (reversing summary judgment based on res judicata when the movant attached a certified copy of the

prior judgment but not the prior petition; without the prior petition, “it would not be possible for the trial judge in this case to know that the same claim as is now being made had, in fact, been decided in the earlier case”); *Chandler v. Carnes Co.*, 604 S.W.2d 485, 487 (Tex. App.—El Paso 1980, writ ref’d n.r.e.) (same).

Although appellee filed with the motion for summary judgment a certified copy of the judgment from a prior action, appellee did not file a certified copy of appellant’s petition from the prior action. The judgment itself does not provide a sufficient description of the claims or issues involved to conclusively establish that the breach of contract for failing to refund a security deposit arose from the same transaction involved in this case. *Cf. Bass v. Champion Int’l Corp.*, 787 S.W.2d 208, 213–14 (Tex. App.—Beaumont 1990, no writ) (agreeing that “normally, the petition and the judgment are essential items,” but upholding the summary judgment in the absence of the prior petition because the “detailed description in the [prior judgment] of the claims and issues involved in the prior suit were made emphatically clear” by the judgment itself (quotation omitted)).

Considering the lack of summary judgment evidence showing the facts underlying appellant’s claim in the prior action, we are unable to weigh the relevant considerations, i.e., whether the facts are related in time, space, origin, or motivation; whether they form a convenient trial unit; and whether their treatment as a trial unit conforms to the parties’ expectations or business understanding or usage. *See Eagle Oil*, 619 S.W.3d at 705. The trial court erred by granting appellee’s motion for summary judgment.

D. Conclusion

Appellant’s first issue is sustained. The trial court’s judgment is reversed, and the case is remanded for further proceedings.

/s/ Ken Wise
Justice

Panel consists of Justices Wise, Jewell, and Poissant.