

STATE OF MICHIGAN
COURT OF APPEALS

TALEESE SIGILAI,

Plaintiff–Appellant,

v

SECURITY PACIFIC EXECUTIVE
and LEO PAPP,

Defendants–Appellees.

UNPUBLISHED
October 15, 1996

No. 179877
LC No. 94-415243-CH

Before: Saad, P.J., and Holbrook and G. S. Buth,* JJ.

PER CURIAM.

In this quiet title action, plaintiff appeals from the circuit court’s order granting summary disposition to defendants. We affirm.

Michael Sigilai and plaintiff, Taleese Sigilai, were married in 1981. Two years later, Michael acquired title to property located at 18660 Tracey in Detroit. After Michael and Taleese separated, Michael became indebted to defendant Security Pacific Executive. When Michael failed to repay the debt, Security Pacific obtained a judgment against Michael and secured a writ of execution against the Tracey property.

In 1992, a default judgment of divorce was entered against Michael. The judgment awarded the Tracey property to plaintiff, “free and clear of any right, claim or interest . . . on the part of [Michael].” Following entry of the divorce judgment, plaintiff attempted to sell the Tracey property and discovered Security Pacific’s lien. Thereafter, she joined Security Pacific as a party defendant to the divorce proceeding and filed a motion to release the lien. The trial court denied the motion without explanation.

In 1994, plaintiff filed this action against Security Pacific and its attorney, Leo Papp, to quiet title against the Tracey property. The trial court granted summary disposition in favor of defendants, holding that plaintiff’s complaint was barred by res judicata. We reject plaintiff’s contention that the circuit court erred in dismissing this case.

* Circuit judge, sitting on the Court of Appeals by assignment.

With regard to defendant Security Pacific, the trial court properly determined that plaintiff's complaint was barred by the doctrine of res judicata. The purpose of res judicata is to avoid relitigation of claims. *Ozark v Kais*, 184 Mich App 302, 308; 457 NW2d 145 (1990). Res judicata requires: (1) the same parties, (2) the same claim, and (3) a judgment on the merits. *McMillan v Auto Club*, 195 Mich App 463, 468; 491 NW2d 593 (1992).

On appeal, plaintiff contends that the doctrine of res judicata is inapplicable here because the order denying removal of the judgment lien in the divorce proceeding was based on jurisdictional grounds and, thus was not a determination on the merits. We disagree. Plaintiff presented no evidence establishing the grounds upon which the order in the divorce proceeding was based. In contrast, defendants attached to their motion for summary disposition the pleadings filed by the parties in the prior case. The pleadings make clear that plaintiff had argued that the lien was not valid because property held by a husband and wife as tenants by the entireties is not subject to levy under execution on a judgment rendered against either husband or wife alone. In response, Security Pacific had asserted that plaintiff did not acquire a superior interest in the Tracey property by virtue of the divorce judgment. Therefore, the principal matter put into issue in the prior case concerned the validity of the judgment lien.¹ Accordingly, the order denying plaintiff's motion to remove the lien in the divorce proceeding was a judgment on the merits for purposes of res judicata. The circuit court in this case properly granted summary disposition in favor of defendant Security Pacific.

Although not raised by the parties, it is unclear on the record whether defendant Leo Papp (Security Pacific's attorney) could properly assert the doctrine of res judicata as a defense to plaintiff's complaint. Papp was not joined as a party defendant in the divorce proceeding, nor was he necessarily in privity with a party in that case. An attorney representing a litigant in a prior action does not acquire an interest in the case sufficient to make him privy with that party. *Williams v Logan*, 184 Mich App 472, 478; 459 NW2d 62 (1990). Nevertheless, we affirm the trial court's decision dismissing plaintiff's complaint against Papp because, on the record presented, plaintiff could not have prevailed. (In her complaint, plaintiff sought an order requiring Papp to release the judgment lien; yet the lien was held by Security Pacific, not Papp.) There is nothing in the record indicating that Papp had an interest in the property. We will not reverse where the right result is reached, but for the wrong reason. *Wayne County v Britton Trust*, 211 Mich App 688, 692; 536 NW2d 598 (1995).

We will not address the remaining issues that plaintiff raises on appeal as those issues have been rendered moot by our ruling herein.

Affirmed.

/s/ Henry William Saad
/s/ Donald E. Holbrook, Jr.
/s/ George S. Buth

¹ As a matter of interest, the real property at issue in this case was titled in the name of "Michael Sigilai, a married man," not in the names of "Michael and Taleese Sigilai, husband and wife" or similar terms.

Therefore, no tenancy by the entirety ever existed. See *Tamplin v Tamplin*, 163 Mich App 1, 5; 413 NW2d 713 (1987).