

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CHRISTINE J. VAN LOWE AND JOYCE C.  
VAN LOWE-MILLER REVOCABLE TRUST,

Plaintiff-Appellant,

v

ROBERT REEDUS, a/k/a ROBERT L. REEDUS,

Defendant/Cross Defendant-  
Appellee,

and

JOHN TOWNSEND,

Defendant/Cross Plaintiff-Appellee,

and

FLAGSTAR BANK,

Defendant-Appellee,

and

TOWNE MORTGAGE COMPANY and  
INTEGRITY FINANCIAL,

Defendants.

UNPUBLISHED  
February 15, 2005

No. 250966  
Wayne Circuit Court  
LC No. 02-240364-CH

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Before: Talbot, P.J., Whitbeck, C.J., and Jansen, J.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendants' motion for summary disposition and quieting title in defendant Townsend. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

## I. FACTS

Milton and Joyce Van Lowe purchased a house in 1966, and a deed was issued in both their names. Milton died testate on October 18, 1996 and a case was opened in the Wayne Probate Court. Eric Smith became the personal representative of the estate. On February 17, 1998, Joyce conveyed the property to her daughter, Christine Van Lowe, by quitclaim deed. Apparently after being presented with the two deeds, the probate court issued an order in June 1998 removing the house from the probate estate and declaring that Christine “is the proper owner of the property.” That decision was reversed in March 1999 when, after a challenge by certain heirs of Milton, the court determined that Milton and Joyce were divorced in 1971, that the judgment of divorce awarded the home to Milton, and that Joyce had no further interest in the property at the time of Milton’s death. The court, therefore, ruled that the house was part of Milton’s estate. In July 1999, Christine and Joyce created the plaintiff revocable trust and, despite the probate court’s ruling, conveyed the house to the trust (its only asset).

In December 1999, Smith, as personal representative of Milton’s estate, sold the house to defendant Reedus, who obtained a mortgage from defendant Towne Mortgage. Reedus subsequently conveyed the property to defendant Townsend, who obtained a mortgage from defendant Flagstar Bank.

In November 2002, the trust filed this action to quiet title, claiming that it had title by virtue of the assignment from Christine, who had title by virtue of the deed from Joyce as recognized by the probate court’s order. In light of the probate court’s March 1999 ruling that the house was part of Milton’s estate, the trial court ruled that the present action was barred by the doctrine of res judicata.

## II. ANALYSIS

### A. Res Judicata

“As a general rule, res judicata will apply to bar a subsequent relitigation based upon the same transaction or events . . . .” *Pierson Sand & Gravel, Inc v Keeler Brass Co*, 460 Mich 372, 380; 596 NW2d 153 (1999). “For the doctrine to apply (1) the former suit must have been decided on the merits, (2) the issues in the second action were or could have been resolved in the former one, and (3) both actions must involve the same parties or their privies.” *Energy Reserves, Inc v Consumers Power Co*, 221 Mich App 210, 215-216; 561 NW2d 854 (1997), “Because res judicata is a question of law, we review de novo its application as well as the court’s action on a motion for summary disposition.” *Phinisee v Rogers*, 229 Mich App 547, 551-552; 582 NW2d 852 (1998).

The probate court and circuit court actions did not arise out of the same transaction or event. The former involved the probate of Milton’s will and one issue decided in connection therewith was whether the house was part of Milton’s estate. The latter involved the validity of one heir’s successor’s claim to the house versus that of good faith purchasers for value from the estate. Therefore, the trial court erred in ruling that plaintiff’s claim was barred by the doctrine of res judicata. Nevertheless, we affirm on alternate grounds.

## B. Collateral Estoppel

Collateral estoppel is to issues what res judicata is to claims. Where res judicata bars a subsequent action based on the same claim as a prior action, collateral estoppel bars a subsequent action when the ultimate issue to be concluded is the same as that litigated in a prior action. *Eaton Co Bd of Rd Comm'rs v Schultz*, 205 Mich App 371, 375-376; 521 NW2d 847 (1994). The elements of collateral estoppel are (1) a question of fact essential to the judgment was actually litigated and determined by a final judgment, (2) the same parties or their privies had a full and fair opportunity to litigate the issue, and (3) there is mutuality of estoppel. *Monat v State Farm Ins Co*, 469 Mich 679, 682-684; 677 NW2d 843 (2004). “Collateral estoppel conclusively bars only issues ‘actually litigated’ in the first action. A question has not been actually litigated until put into issue by the pleadings, submitted to the trier of fact for a determination, and thereafter determined.” *VanDeventer v Michigan Nat'l Bank*, 172 Mich App 456, 463; 432 NW2d 338 (1988).

The plaintiff in this action acquired the property from Christine and Joyce. Pursuant to the judgment of divorce and the subsequent discharge of her mortgage, Joyce had no interest in the property, which belonged solely to Milton. The probate court subsequently determined that Joyce had no interest to convey to Christine, that the deed conveying the property to Christine was invalid, and that title to the house was vested in Milton’s estate. Therefore, the issue to be determined in this case—whether Christine had obtained a valid interest in the house from Joyce, which she could then convey to the trust—had already been litigated. Although it was not decided in the context of a final judgment or order, it is nonetheless binding. *Keywell & Rosenfeld v Bithell*, 254 Mich App 300, 347; 657 NW2d 759 (2002). The trust was not a party to the probate court action, but is in privity with Joyce and Christine, who were parties to that litigation. *Husted v Auto-Owners Ins Co*, 213 Mich App 547, 556; 540 NW2d 743 (1995), aff’d after remand 459 Mich 500; 591 NW2d 642 (1999). Likewise, defendants herein were not parties to the probate court action, but are in privity with Milton’s estate, which was a party. *Id.* Finally, mutuality is not required where, as here, the doctrine is being asserted defensively against a party who has had a full and fair opportunity to litigate the issue in question. *Monat, supra* at 680-681. Therefore, the trial court did not err in granting defendants’ motion. Although the trial court erroneously relied on the doctrine of res judicata, this Court will not reverse where the trial court reached the right result for the wrong reason. *Taylor v Laban*, 241 Mich App 449, 458; 616 NW2d 229 (2000).

Affirmed.

/s/ Michael J. Talbot  
/s/ William C. Whitbeck  
/s/ Kathleen Jansen