

Judgment: The Res Judicata Effect of a criminal judgment on a Civil case

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The courts held that the civil court is bound by a judgment issued in a criminal case but only in relation to the matters decided in the criminal judgment that are common to both the criminal and civil proceedings, the legal description of the act and it can be attributed to the perpetrator. The Court referenced Article 269 of the Law of Criminal Procedures and Article 50 of the Law of Proof regarding the res judicata effect of a criminal judgment.

If the criminal court has made a conclusive determination of these matters, then the civil court must be bound by it in civil actions relating to it, and must not reopen those issues, as that would be contrary to the principle of res judicata in respect of the previous criminal judgment. The res judicata force applies to everybody, notwithstanding that they were not parties to the criminal case.

In the present case, the criminal court had passed a judgment finding that the Second Defendant had not forged the signatures on the Sale and Purchase Agreements (the SPAs) as she had signed within the powers of her authority (in her power of attorney) and as a result, the Claimant (the Principal) was bound by the terms of the SPAs and was not permitted thereafter to reopen that dispute before the civil court in order to claim damages from the Second Defendant (the property developer).

Claim

An action was filed against an individual (First Defendant) and a property developer (the Second Defendant) for an order to terminate several SPAs and a claim for damages

The Claimant filed a property action against the property developer and an individual who signed the SPAs on the Claimant's behalf (the First Defendant) seeking an order for the termination of the SPAs and requesting the property developer to refund the sum of AED 2,904,539 to the Claimant. The Claimant also requested damages. The Claimant argued that the property developer fraudulently revised the contract price by an additional AED 4 million through the First Defendant who signed the SPAs on behalf of the Claimant.

Court of first instance:

The First Defendant argued that the action should not be entertained for being filed against a party having no capacity since she acted on the Claimant's behalf, as an agent, in signing detailed reservation agreements pursuant to a Power of Attorney from him.

The Second Defendant pleaded that the Dubai Courts had no local jurisdiction in the matter because the contract to be terminated relates to units of a property located in Abu Dhabi. As a result, the Abu Dhabi courts have jurisdiction.

The Court of First Instance therefore rejected the Claimant's action.

Court of appeal

The Claimant appealed and on 11.01.11, the Court of Appeal reversed the appealed decision and ordered the Second Defendant to perform the contract dated 19.02.08 subject to the old terms as to price – AED 26,140,085.8 (disregarding the revised contract price of AED 4 million).

Court of Cassation

All parties appealed. On 18.09.11, the Court of Cassation decided, in all appeals, to reverse the Court of Appeal's decision and return the matter back to the Court of Appeal for it to be reconsidered by a different panel of judges.

Final Decision

The Second Defendant argued that the Court of Appeal was wrong to order the termination of the SPAs (between the Second Defendant and the Claimant) on the basis of the Second Defendant's alleged breach of its previous agreement by making a new offer without the Claimant agreeing to an upwards revision of the price. The Court of Appeal considered this a breach on the part of the Second Defendant necessitating the termination of the SPAs when in fact there was no breach of the terms of the completed binding contract that was duly formed by offer and acceptance between the parties in the case of all the SPAs which the First Defendant signed pursuant to a PoA from the Claimant, as held in the criminal verdict acquitting the First Defendant of the charge of forging those contracts. The Criminal Court had determined the issue of the Claimant's acceptance of the contracts based on the adjusted price and found them to be binding on him.

It was argued that where an agent signs a contract within the powers of his authority (the Power of Attorney) in the name of the principal, the provisions of such contract and the rights (obligations) arising from the contract shall transfer upon the principal, pursuant to Article 153 of the Civil Code. The Court of Cassation upheld this argument.

The Court also cited the rule under Article 269 of the Law of Criminal Procedures and Article 50 of the Law of Proof with respect to a criminal verdict delivered in a criminal case being binding on the civil court as to its determination of issues relevant to whether the accused is guilty of the offence that are common to both the criminal and civil proceedings and the legal characterization of the elements of the offense and its imputation to the perpetrator. A final criminal verdict resolving such issues would be recognized by the civil court in determining related civil rights and the civil court may not reconsider those issues and render a decision contradicting the criminal verdict already delivered which is binding for all.

The court held that the matter against the property developer and the First Defendant achieved the status of res judicata precluding the rehearing of the action. The court passed judgment acquitting the accused of the offence of forgery of a document, the effect of that is that the judgment of acquittal is based on insufficient evidence, and that judgment becomes conclusive. Accordingly, it will not be open to the civil court to allow a civil claim based on falsification of that document.

As a result the court dismissed the action against the First Defendant and the Second Defendant.