[DO NOT PUBLISH]

In the United States Court of Appeals

For the Eleventh Circuit

No. 24-12945

Non-Argument Calendar

BENEDICT MOHIT,

Plaintiff-Appellant,

versus

CITY OF HAINES CITY,
a local government entity and a political
subdivision of the State of Florida,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Florida

D.C. Docket No. 8:23-cv-02025-SDM-SPF

Before NEWSOM, GRANT, and KIDD, Circuit Judges.

PER CURIAM:

Benedict Mohit, proceeding *pro se*, appeals the district court's determination that claim preclusion barred his complaint challenging the impact of the City of Haines City's (the "City") regulations on his land. After careful review, we affirm.

I. BACKGROUND

A. Mohit's Instant Complaint

Mohit is the owner of a 20-acre property in Polk County, Florida. He has used this land for farming since 2012, the Polk County Property Appraiser has consistently classified his land as agricultural, and, in cultivating his property, he has adhered to the Florida Department of Agriculture's Best Management Practices ("BMP"). However, because his property is located in a single-family residential district within the City, he was told that his agricultural activities would violate the City's Land Development Regulations ("LDR"), and he would need to secure a conditional use permit, which he did in August 2015, enumerating limited permitted uses for the land.

In September 2023, Mohit filed a *pro se* complaint alleging that the City's LDRs and permit requirements hindered his rights as an agricultural landowner and were contrary to law. Mohit's complaint included the following claims against the City:

(1) violation of the Clean Water Act and Florida statutes; (2) violation of Florida apiary statutes; (3) violation of Florida statutes on growing vegetables; (4) lack of authority to mandate rezoning or land development permits; (5) violation of the Florida Right to Farm Act and Florida regulations on agriculture; (6) violation of Florida regulations regarding farm structures and equipment; (7) violation of due process; and (8) violation of equal protection. In addition to these eight claims, Mohit alluded to being deprived of all "economically beneficial and productive use of his farm property," and requested monetary damages and various forms of injunctive relief that would prevent the City from enforcing specific sections of its LDRs and applying the conditional uses to his property and crops.

B. Mohit's Previous State Cases

Mohit has been pursuing legal action surrounding the regulation of his land for over a decade. In 2014, Mohit filed a *pro se* complaint in Florida state court against the City and several City officials. The operative third amended complaint consisted of 13 counts, asserting that the City's ordinances and LDRs violated Florida law, violated Mohit's due process rights, and constituted a regulatory taking of Mohit's land. The state court ultimately dismissed or denied Mohit's claims and found that the Florida laws at issue (1) did not expressly prohibit a municipality from enacting and enforcing zoning laws, including conditional use permits, (2) did not prohibit the City's right to regulate, and (3) were not unconstitutional on their face or as applied to Mohit. After a Florida appellate

court affirmed, Mohit pursued multiple similar state actions, all of which were unsuccessful.

C. Mohit's Previous Federal Litigation

In 2018, Mohit, still *pro se*, filed his first federal suit against the City, asserting, as relevant here, that the City's actions constituted an unlawful taking of his property (Count One) and violated his due process and equal protection rights (Count Two).

The court dismissed Count Two. It first concluded that Mohit was unable to show a due-process violation because the City's conduct constituted "executive actions" affecting Mohit alone and were thus "not actionable under the substantive component of the Due Process Clause" regardless of "how arbitrary these decisions were." The court further explained that Mohit failed to allege plausibly that the City's actions lacked a rational basis because his arguments had either already been rejected by the state court or were without support. The court specifically noted that although Mohit contended that the City's regulations violated certain Florida statutes, "the state trial court ha[d] already determined that the LDR and Conditional Use Permit are not in violation of Florida law."

The court again applied a rational basis test to reject Count Two's equal protection allegations and concluded that Mohit failed to identify clearly any similarly situated properties or to allege sufficiently that the City's regulations were not rationally related to a legitimate government interest. Mohit moved for reconsideration,

pursuant to Federal Rule of Civil Procedure 59(e), but the district court denied his motion.

The district court thereafter granted summary judgment to the City on Count One and concluded that the regulations did not constitute a "complete taking," because, even though it may not produce the most profit, Mohit's conditional use permit allowed him to grow hay and keep certain animals on his farm. The court explained that "the City enacted certain LDRs that reflect a choice to set aside and zone certain areas as residential . . ., but the City also allows exception[s] to this zoning and allows agricultural uses of such land through the use of conditional use permits." Because these actions were "not akin to a physical invasion of the property" or "the sort of overly burdensome regulation that robbed Mohit of all economically beneficial uses of his [p]roperty," the court determined that the City did not go "too far" in enacting the LDRs or permit requirements.

The court reiterated that "the crux of Mohit's argument [wa]s that the City c[ould] [not] enact regulations that regulate[d] agricultural or farming activities because such regulations violate[d] Florida law[,]" but this argument had already been rejected by the state court. It thus concluded that Mohit's assertions not only failed to implicate a Takings Clause argument but also had been "squarely addressed and rejected" by the state court. On appeal, we affirmed. *Mohit v. City of Haines City* (*Mohit I*), 845 F. App'x 808 (11th Cir. 2021).

In 2020, while *Mohit I* was still pending, Mohit filed a substantively similar *pro se* complaint in the district court, naming several City officials in their individual capacities. His amended complaint raised a total of 12 claims, alleging due-process and equal-protection violations, referencing the unlawful taking of his property, and requesting punitive damages.

The district court dismissed Mohit's complaint. As relevant here, it concluded that the due process claims were "due to be dismissed for essentially the same reason" as Count Two in *Mohit I*, and "the only notable difference" with his equal protection claim was his emphasis on a specific neighbor as a similarly situated comparator. However, it reasoned that Mohit did not dispute that the City issued him the exact conditional use permit he requested or allege any facts supporting an inference of discriminatory animus. Further, the court determined that Mohit had not shown that he was denied all economically beneficial use of his property and his conclusory allegations were insufficient to invoke a Takings Clause analysis. We affirmed on appeal. *Mohit v. West* (*Mohit II*), No. 21-12483 (11th Cir. Jan. 18, 2023).

D. The District Court's Resolution of the Instant Case

In October 2023, the City moved to dismiss Mohit's instant complaint, and argued, among other things, that preclusion barred the instant case because it was "duplicative of [Mohit's] prior unsuccessful lawsuits." Mohit responded with several arguments in opposition, including the contentions that his instant complaint included new facts regarding the classification of his land, challenged

different Florida statutes, and the *Mohit I* decision relied on outdated information.

The district court granted the City's motion under the doctrine of claim preclusion and dismissed all of Mohit's claims with prejudice. The court first recognized that Mohit had sued the City or individual elected officials "on seven separate occasions," and each of those earlier cases "comprise[d] claims based on Mohit's dispute over the [C]ity's regulations and the conditional use permit." The court concluded that "[a] review of Mohit's earlier actions reveal[ed] with 'little difficulty' that claim preclusion applie[d] to each claim asserted in th[e] [instant] action." It elaborated that Mohit "had his chance to prosecute his claims against" the City and he was now precluded from pursuing his "persistent challenges" to these ordinances and regulations. This appeal followed.

II. STANDARD OF REVIEW

We review a district court's determination of privity as to *res judicata* for clear error and its application of the remaining elements *de novo*. *Rodemaker v. City of Valdosta Bd. of Educ.*, 110 F.4th 1318, 1327 (11th Cir. 2024), *petition for cert. filed* (U.S. Jan. 29, 2025) (No. 24-852). We review the dismissal of a complaint under Federal Rule of Civil Procedure 12(b)(6) *de novo*. *Starship Enters. of Atlanta, Inc. v. Coweta Cnty., Ga.*, 708 F.3d 1243, 1252 (11th Cir. 2013).

III. DISCUSSION

Under the doctrine of *res judicata*, also referred to as claim preclusion, a final judgment precludes subsequent litigation of the same claim, regardless of whether re-litigation of the claim raises

the same issues as the prior suit. *In re Piper Aircraft Corp.*, 244 F.3d 1289, 1296 (11th Cir. 2001). Four elements must be present for *res judicata* to bar a subsequent action: (1) there was a final judgment on the merits in the prior suit; (2) the judgment in that suit was rendered by a court of competent jurisdiction; (3) both suits involve identical parties or their privies; and (4) both suits involve the same cause of action. *Id.* If all four elements are met, the district court next determines whether the claim in the instant suit was, or could have been, raised in the prior suit and, if so, will preclude the claim. *Id.*

On appeal, Mohit indicates that his *pro se* complaint should have been liberally construed and reiterates that the City's improperly adopted regulations rendered his farm worthless. He asserts that claim preclusion does not apply to the instant case because his complaint introduced new facts and relied upon different state-adopted farming rules, and the City has not shown that any court has determined that it could adopt LDRs regulating agricultural activity subject to BMPs. He further argues that allowing claim preclusion to bar his instant action would result in manifest injustice and permit the City to use "home rule powers" to regulate his farm and act with impunity in violating Florida laws.

We disagree. Mohit's instant complaint constitutes another one of his several attempts to relitigate previously rejected claims.

The first two elements of claim preclusion are met here because there is a final judgment on the merits[1] by a court of competent jurisdiction: the district court in *Mohit I*. *See* 28 U.S.C. § 89(b); *Hogan v. Allstate Ins. Co.*, 361 F.3d 621, 628–29 (11th Cir. 2004) (explaining that disposal of a case at the summary judgment stage "is a final adjudication on the merits"); *Hart v. Yamaha-Parts Distributors, Inc.*, 787 F.2d 1468, 1470 (11th Cir. 1986) ("A dismissal with prejudice operates as a judgment on the merits unless the court specifies otherwise."). As to the third element, Mohit sued the City in both *Mohit I* and the instant case. *See N.A.A.C.P. v. Hunt*, 891 F.2d 1555, 1560 (11th Cir. 1990).

Regarding the fourth element, "[i]n general, cases involve the same cause of action . . . if the present case arises out of the same nucleus of operative fact, or is based upon the same factual predicate, as a former action." *Israel Disc. Bank Ltd. v. Entin*, 951 F.2d 311, 315 (11th Cir. 1992) (quotation marks omitted). Two cases arise out of the same nucleus of operative fact if the same facts are involved in both suits, such that the present claim could have been effectively litigated with the prior suit. *Rodemaker*, 110 F.4th at

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[1] Mohit attempts to employ offensive claim preclusion using an order from his 2014 Florida case recognizing that the City could not regulate "bona fide agricultural activities." However, the order in question dismissed Mohit's first amended complaint without prejudice, which is not a final judgment on the merits for the purposes of claim preclusion. *See Beach Blitz Co. v. City of Miami Beach, Florida*, 13 F.4th 1289, 1300 (11th Cir. 2021) (explaining that dismissal without prejudice is generally "not on the merits"); *Lozman v. City of Riviera Beach, Fla.*, 713 F.3d 1066, 1074 (11th Cir. 2013) (outlining the elements that must be present to apply *res judicata* from a Florida judgment).

1330. A court "must examine the factual issues that must be resolved in the second suit and compare them with the issues explored in the first case." *Pleming v. Universal-Rundle Corp.*, 142 F.3d 1354, 1357 (11th Cir. 1998).

Here, Mohit's basis for his current claims – the contention that the City's regulations violated his rights as an agricultural landowner – also provided the predicate for his failed causes of action in *Mohit I*. *Entin*, 951 F.2d at 315. Indeed, the district court in *Mohit I* explicitly denied Mohit's due process and equal protection challenges and explained that Mohit's contention that Florida law prohibited the City from enacting its LDRs and permit requirements had already been "squarely rejected" by the state court. *See Pleming*, 142 F.3d at 1356.

There has not been a "change[] in facts essential to" the previous judgment that would render claim preclusion inapplicable. *Montana v. United States*, 440 U.S. 147, 159 (1979) (discussing collateral estoppel). The facts of the instant complaint revolve around Mohit's purchase of his land, his desired farming activities, and his disputes with the City, all of which were present in *Mohit I*. And, in both complaints, Mohit primarily cited the same allegedly unlawful LDRs and laws that were purportedly violated. *See Rodemaker*, 110 F.4th at 1330; *Pleming*, 142 F.3d at 1356. The *Mohit I* court explained that Mohit's essential argument that the City could not enact any regulations limiting agricultural activities failed because it had already been rejected by the state court. This finding is not impacted by Mohit's alleged new facts regarding his land classification

and BMP applicability. *See Montana*, 440 U.S. at 159. As such, Mohit's claims arise out of the same nucleus of operative fact and could have effectively been, or were in part, raised in his prior case. *In re Piper*, 244 F.3d at 1296.

Finally, we note that Mohit was not permitted to amend his complaint prior to its being dismissed with prejudice, even though this opportunity is generally afforded to *pro se* litigants. *Woldeab v. Dekalb Cnty. Bd. Of Educ.*, 885 F.3d 1289, 1291–92 (11th Cir. 2018). However, we find no abuse of discretion in the district court's failure to allow amendment, because amendment would have been futile. *See id.* at 1291. Mohit's persistent state and federal filings show that the opportunity to file a more carefully drafted complaint would not have benefited him. *Cockrell v. Sparks*, 510 F.3d 1307, 1310 (11th Cir. 2007) (explaining that "[l]eave to amend a complaint is futile when the complaint as amended would still be properly dismissed"). Indeed, Mohit has consistently attempted to challenge the same City action for the past ten years, through multiple amended complaints, to no avail.

IV. CONCLUSION

For the reasons stated above, we **AFFIRM** the district court's dismissal of Mohit's complaint as barred by *res judicata*.