

THIRD DIVISION

[G.R. No. 177346, April 21, 2009]

GUILLERMO PERCIANO, JR., PETITIONER, HEIRS OF PROCOPIO TUMBALI, REPRESENTED BY LYDIA TUMBALI, RESPONDENTS.

DECISION

AUSTRIA-MARTINEZ, J.:

In Civil Case No. 2603 for Reconveyance with Damages, the Regional Trial Court (RTC) of Tuguegarao City, Branch IV, rendered a decision dismissing the complaint filed therein by the plaintiffs Enrica and Sofia Garunay. The RTC also rendered judgment on the counter-claim of the defendants, the heirs of the spouses Vicente Coballes and Juana Matammu, and ordered the plaintiffs to vacate the property subject of the dispute, which is situated in Buntun, Tuguegarao City and contains an area of 9,394 square meters.^[1]

The defendants attempted execution of the decision, but it turned out that herein petitioner, Guillermo Perciano, Jr. who is not a party to Civil Case No. 2603, was occupying a portion of the subject property.

Petitioner then filed a special civil action for *certiorari* with the Court of Appeals (CA) praying for the issuance of a temporary restraining order and a writ of preliminary injunction. The CA, however, denied the petition for lack of merit.^[2]

This prompted petitioner to file the present petition for review on *certiorari*. Pending resolution of the case, the parties submitted a Compromise Agreement dated September 2008,^[3] which reads as follows:

COMPROMISE AGREEMENT

The undersigned parties assisted by their respective counsel and to this Honorable Court most respectfully manifest that they have finally settled their herein dispute in the following manner:

1. That petitioner Guillermo Perciano, Jr. acknowledges and recognizes the absolute ownership and right of possession of respondent Lydia Tumbali on that parcel of land involved in this case which is covered by TCT No. T-67236.
2. That, however, pursuant to their property arrangement, respondent Lydia Tumbali hereby cedes, transfers and conveys as she by these compromise agreement have ceded, transferred and conveyed unto petitioner Guillermo Perciano, Jr. 208 square meters southern portion of the above-mentioned parcel of land.