

SECOND DIVISION

[G.R. No. 170853, October 19, 2007]

**SPOUSES ISMAEL DISQUITADO AND VILMA DISQUITADO,
PETITIONERS, VS. JESUS CORNELIA, RESPONDENT.**

DECISION

CARPIO MORALES, J.:

In a decision dated August 12, 1994 in Civil Case No. 9852,^[1] "*Alba Bonilla et al. v. Rito Cornelia, Rufina Cornelia, Candida Cornelia et al.*," for Reconveyance, Nullification of Documents, Cancellation of Certificates of Titles and Damages, Branch 39 of the Regional Trial Court (RTC), Dumaguete City dismissed the complaint against the therein defendants Rito Cornelia et al. which questioned their acquisition of portions of Lot Nos. 2626 and 2628 located at Boloc-Boloc, Sibulan, Negros Oriental. In dismissing the complaint, the trial court held, inter alia, that the acquisition in 1939 by Rito Cornelia's father Andres Cornelia, who died on February 20, 1940,^[2] of portions of the two lots "remains valid and legal even as to the latter's heirs."^[3] The decision became final and executory after the Court of Appeals affirmed^[4] it by Decision of August 12, 1994.

In October 2003, Rito Cornelia and some of his co-defendants in Civil Case No. 9852 filed before the trial court a Motion for Approval of Project of Partition wherein Andres Cornelia, father of Rito Cornelia who in turn was the father of herein respondent Jesus Cornelia, was apportioned 24/180 shares or 1,774 square meters (sq. ms.) of Lot No. 2626, and 24/60 or 672 sq. ms. of Lot No. 2628. The trial court, by Order of February 11, 2002, approved the Project of Partition to which was attached a Sketch Plan indicating the location of the portions of the two lots adjudicated to Andres Cornelia.

In March 2003, respondent, with the approval of his siblings, fenced the 1,774 sq. ms. of Lot No. 2626 and 672 sq. ms. of Lot No. 2628 adjudicated to his grandfather Andres Cornelia, drawing petitioner spouses Ismael and Vilma Disquitado to file on August 14, 2003 a complaint for forcible entry and damages against respondent before the Municipal Trial Court (MTC) of Sibulan, Negros Oriental.^[5] The case was docketed as Civil Case No. 482. In their Complaint, petitioners claimed that they had since 1989 been in possession of the two lots as tenants of all the co-owners thereof until the forcible entry by respondent.

Respondent countered that he, together with his siblings, had the right to fence the questioned areas, the same having been adjudicated to their grandfather Andres Cornelia from whom they derived ownership thereof.

To the Position Paper which they submitted before the MTC^[6] in support of their

complaint for forcible entry against respondent, petitioners attached an October 11, 2003 Affidavit of Magdalena Aranas-Decano (Magdalena)^[7] reading:

x x x x

1. That I am one of the legitimate surviving heirs of the late Alberto Aranas, a registered co-owner of Lot Nos. 2626 and 2628, located at Boloc-boloc, Sibulan, Negros Oriental, under Original Certificate of Title No. 15698;
2. That sometime in 1989, all the heirs of all the original registered owners of both lots agreed with spouses Vilma and Ismael Disquitado that the latter shall work on our co-owned lots aforesaid as tenants thereof;
3. That since 1989 up to the present, the subject lots have been tilled and tenanted by spouses Vilma and Ismael Disquitado and by virtue of which the latter have introduced various agricultural improvements thereon;
4. That the tenancy rights of spouses Vilma and Ismael Disquitado are still subsisting up to the present;
5. That sometime in March, 2003 we were informed by spouses Vilma and Ismael Disquitado that separate portions of Lot 2626 and Lot 2628, both of Sibulan, Negros Oriental were forcefully entered into by Mr. Jesus Cornelia;
6. That for almost fifteen years, the tenancy rights of spouses Vilma and Ismael Disquitado have never been questioned or terminated by any of the co-owners of the aforesaid lots;

x x x x^[8] (Emphasis and underscoring supplied)

The affiant is the same Magdalena who was one of the plaintiffs in the above-mentioned Civil Case No. 9852 for reconveyance . . . against the therein defendant-co-owners of the two lots including Rito Cornelia-father of respondent, which case was dismissed by the RTC.

By Decision of October 17, 2003, the MTC decided the forcible entry case in favor of the plaintiffs-herein petitioners and against the defendant-herein respondent, disposing as follows:

WHEREFORE, in the light of the foregoing, the Court finds preponderance of evidence for the [plaintiff-]Spouses Wilma R. Disquitado and Ismael Disquitado and judgment is hereby rendered as follows:

1. Ordering defendant Jesus Cornelia and/or any person or persons acting in his behalf to vacate and demolish the fence, which he has constructed [on] the lots [sic] in question;
2. Ordering defendant Jesus Cornelia to pay the sum of P10,000.00 as attorney's fees; and