

**TOBIAS SELGA AND CEFERINA GARANCHO SELGA, PETITIONERS,
VS. SONY ENTIERRO BRAR, REPRESENTED BY HER
ATTORNEY-IN-FACT MARINA T. ENTIERRO, RESPONDENT.**

G.R. No. 175151. September 21, 2011

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

Before Us is a Petition for Review under Rule 45 of the Rules of Court of the Decision[1] dated May 31, 2006 and Resolution[2] dated September 28, 2006 of the Court Appeals in CA-G.R. CV No. 72987, which reversed the Decision[3] dated July 27, 2001 of Branch 56, Regional Trial Court (RTC) of Himamaylan City, Negros Occidental (RTC-Branch 56), in Civil Case No. 573 for Legal Redemption with Damages.

The following facts are not disputed:

Francisco Entierro (Francisco) died intestate on March 7, 1979, and left behind a parcel of land, identified as Lot 1138-A, located in Himamaylan City, Negros Occidental, with an area of 39,577 square meters, and covered by Transfer Certificate of Title (TCT) No. T-10273 in his name (subject property).

On May 15, 1985, Francisco's spouse, Basilia Tabile (Basilia), and legitimate children, Esteban, Herminia, Elma, Percival, and Gilda, all surnamed Entierro (collectively referred to as Basilia, et al.), executed a Deed of Sale with Declaration of Heirship. In said Deed, Basilia, et al., declared themselves to be Francisco's only heirs who inherited the subject property; and at the same time, sold the subject property to petitioners, spouses Tobias Selga and Ceferina Garancho Selga, for P120,000.00. By reason of said sale, TCT No. T-10273 in Francisco's name was cancelled and replaced by TCT No. T-134408 in petitioners' names.

Seven years later, on July 10, 1992, respondent Sony Entierro Brar, represented by her sister-in-law and attorney-in-fact, Marina T. Entierro, filed before Branch 55 of the RTC of Himamaylan City, Negros Occidental (RTC-Branch 55) a Complaint for Annulment of Sale with Damages against petitioners, which was docketed as Civil Case No. 276. Respondent claimed that she was one of the legitimate children of Francisco and Basilia, and that she had been preterited and illegally deprived of her rightful share and interests in the subject property as one of Francisco's legal heirs. Among respondent's allegations in her Complaint was:

10. That as one of the co-heirs of the undivided portion of the questioned lot 1138-A, [herein respondent] is legally entitled to redeem the said property from the [herein petitioners] for the price the said [petitioners] have paid her co-heirs as appearing in the Deed of Sale with Declaration of Heirship, Annex "B." [4]

Respondent prayed that RTC-Branch 55 render judgment:

1. Declaring the [herein respondent] as one of the legitimate children and legal heirs of the late Francisco Entierro and is legally entitled to inherit and share in Lot No. 1138-A of Himamaylan, which the latter had left behind upon his demise on March 7, 1979;
2. Declaring the annulment of the Deed of Sale with Declaration of Heirship, Annex "B", because [respondent]

was unduly preterited therein, as one of the children and heirs of the late Francisco Entierro and consequently, the said document should be ordered cancelled insofar as [respondent's] legal share and participation over the said Lot 1138-A is concerned;

3. Ordering the [respondent] legally entitled to redeem from the [herein petitioners] the subject Lot 1138-A for the redemption price of P52,000.00 as one of the co-heirs and co-owners proindiviso of the said property at the time, the same was sold and conveyed in favor of the [petitioners] on May 15, 1985, as shown in Annex "B" hereof;

4. Ordering the [petitioners] to account to the [respondent] her share in the produce of the land in question with respect to her legal share on said property is concerned from May 15, 1985, up to the time, that [respondent's] legal share and participation therefrom, shall have been ordered delivered to her;

5. Ordering the [petitioners] to pay the [respondent] the sum of P50,000.00 by way of attorney's fee and to pay the costs of this suit;

6. [Respondent] further prays for such other reliefs as may be deemed just and equitable in the premises.[5]

After trial on the merits, RTC-Branch 55 rendered a Decision dated May 8, 1996.

According to RTC-Branch 55, it was duly proven that respondent is a legitimate daughter of Francisco and Basilia; a fact admitted by petitioner Tobias Selga himself during his cross-examination. Upon Francisco's death, half of the subject property was inherited by his spouse, Basilia; while the other half was inherited by his children, pro-indiviso. The property relation of Francisco's heirs as regards the subject property was governed by the provisions on co-ownership. Basilia, et al., validly sold all their rights and interests over the subject property to petitioners, excluding the rights and interests over the same pertaining to respondent, who did not participate in the execution of the Deed of Sale. RTC-Branch 55 summed up its findings, thus:

The other heirs have no right to sell the share belonging to the [herein respondent]. Although this fact is known to the [herein petitioners], the [respondent's] share was included in the Deed of Sale by selling the entire Lot No. 1138-A. The [petitioners], knowing that [respondent] Sony Entierro Brar was preterited during the settlement and disposition of the subject Lot No. 1138-A, was in bad faith when he caused for the registration of the entire lot in his name. Knowing that there was a flaw in his title, an implied trust was created with respect to that of the share belonging to respondent Sony Entierro Brar.[6]

RTC-Branch 55 finally disposed:

WHEREFORE, based on the foregoing premises and considerations, the Court hereby renders judgment declaring the annulment of the Deed of Sale with Declaration of heirship dated May 15, 1985 adjudicating ownership of Lot No. 1138-A in the name of [herein respondent] Sony Entierro Brar being one of the legitimate heirs of spouses Francisco Entierro and Basilia Tabile one eleventh (1/11) share and ten eleventh (10/11) share in the name of [herein petitioner] Tobias Selga married to Ceferina Garancho and further orders the following:

1. For the relocation survey of Lot No. 1138-A to establish the definite location of the respective share of the parties, the expenses to be borne by them proportionately to their share;

2. The Register of Deeds of the Province of Negros Occidental is hereby directed to cancel Transfer Certificate of Title No. T-134408 and in lieu thereof issue a new transfer certificate of title in the name of Tobias Selga consisting of an area of Thirty[-]Seven Thousand Seven Hundred Seventy[-]Eight (37,778) square meters and another new transfer certificate of title in the name of Sony Entierro Brar consisting of an area of One Thousand Seven Hundred Ninety[-]Nine (1,799) square meters upon submission of an approved subdivision plan;

3. For the [petitioners] to account to [respondent] her share in the produce of the land from May 15, 1985 up to the time that [respondent's] possession of her share of Lot No. 1138-A is restored to her; and, finally,
4. For the [petitioners] to pay [respondent] the sum of P50,000.00 as attorney's fee and to pay the costs of suit.[7]

Unsatisfied, respondent filed an appeal of the aforequoted judgment of RTC-Branch 55 before the Court of Appeals, where it was docketed as CA-G.R. CV No. 9520A UDK. However, respondent subsequently moved to withdraw her appeal, which the Court of Appeals granted in a Resolution dated June 13, 1997. The Decision dated May 8, 1996 of RTC-Branch 55 eventually attained finality.

In a Letter dated August 11, 1997, respondent informed petitioners that she was exercising her right to redeem petitioners' ten-eleventh (10/11) share in the subject property, in accordance with the final and executory Decision dated May 8, 1996 of RTC-Branch 55 in Civil Case No. 276. In their Reply-Letter dated August 20, 1997, petitioners' counsel rejected respondent's demand for the following reasons:

Please be informed that your claim re redemption is devoid of complete merit.

It must be remembered that in your complaint, you pleaded redemption as one of your causes of action and even specifically sought the same as a prayer in your complaint. However, on the basis of the decision of the Regional Trial Court, dated May 8, 1996, the court did not see fit to grant you the right of redemption.

It is the considered view of the undersigned that in line with established jurisprudence, you cannot now or in the future, exercise this right.[8]

This prompted respondent to institute on January 21, 1998 a Complaint for Legal Redemption with Damages, which was docketed as Civil Case No. 573 before RTC-Branch 56.

In their Answer with Counterclaim[9] in Civil Case No. 576, petitioners invoked the defenses of res judicata and/or forum shopping, arguing that the cause of action pleaded by respondent was among those that had already been litigated in Civil Case No. 276 before RTC-Branch 55.

In its Decision dated July 27, 2001, RTC-Branch 56 agreed with petitioners and dismissed Civil Case No. 573, ratiocinating that:

The primary issue to be resolved in this case is whether or not the present action is barred by res judicata in view of the finality of the decision in Civil Case No. 276 involving the same parties herein. Although the prior case was entitled annulment of sale with damages, yet, the averments in the complaint and the reliefs sought for included the legal redemption of Lot 1138-A, which is the subject of the present action, particularly paragraph 10 of the complaint and paragraph 3 of the prayer therein which were earlier quoted. The elements of res judicata are (1) the judgment brought sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be based on a judgment or order on the merits; and (4) there must be identity of parties, subject matter and causes of action as between the prior and the subsequent actions. Clearly, these elements are present. It is an elementary rule that the nature of a cause of action is determined by the facts alleged in the complaint as constituting a cause of action. There is, therefore, identity of parties, subject matter and cause of action between the two (2) cases.

Since the decision in Civil Case No. 276 was silent on the issue of legal redemption, it can be inferred therefrom that the court did not see it fit to grant the same. Plaintiff should have moved for the reconsideration thereof or should have appealed to the Court of Appeals raising this particular issue. It did not do so. Thus, the decision had become final and executory.

The filing of the present action constitutes forum shopping. "The filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment amounts to forum shopping. Only when the successive filing of the suits as part of an appeal, or a special civil action, will there be no forum shopping because the party no longer availed of different fora but, rather, through a review of a lower tribunal's decision or order." (Quinsay v. CA, et al., G.R. No. 127058, Aug. 31, 2000.)^[10]

Respondent's appeal of the aforementioned judgment of RTC-Branch 56 was docketed as CA-G.R. CV No. 72987 before the Court of Appeals.

On May 31, 2006, the Court of Appeals promulgated its Decision in CA-G.R. CV No. 72987, which reversed and set aside the assailed July 27, 2001 Decision of RTC-Branch 56 in Civil Case No. 573.

The Court of Appeals held that respondent had validly exercised her right to redemption of the subject property:

As a rule, co-heir/s or co-owner/s of undivided property are required to notify in writing the other co-heir/s or co-owner/s of the actual sale of the former's share in the co-ownership. And, within one (1) month or 30 days from the said notice, a co-heir or co-owner who wish to redeem such property must make a claim for the reconveyance of the same by either consignation in court or offer to repurchase by tendering the vendor payment of the redemption money.

A thorough perusal of the records as well as the documentary evidences presented by both parties reveal that no written notice was given by the heirs of Francisco Entierro to [herein respondent] regarding the sale of Lot No. 1138-A, because, [respondent] was preterited or omitted in the inheritance during the settlement and disposition of the subject lot. She was initially not considered nor included as heir of Francisco Entierro not until she was judicially declared one. However, despite the absence of a written notice, [respondent], in her complaint in Civil Case No. 276, impleaded therein her claim to redeem Lot No. 1138-A sold by her co-heirs to [herein petitioners]. Hence, by such act, [respondent] had effectively enforced her right.^[11]

The appellate court further ruled that Civil Case No. 573 before RTC-Branch 56 was not barred by the final judgment in Civil Case No. 276 of RTC-Branch 55:

What had become final and conclusive in Civil Case No. 276 is only with respect to the filiation of [herein respondent] and [her] right to inherit, but not as to [respondent's] right to redeem the property sold by her co-heirs.

We disagree with the court a quo's holding which provides, to wit: "Since the decision in Civil Case No. 276 was silent on the issue of legal redemption, it can be inferred therefrom that the court did not see it fit to grant the same."

Right of legal redemption is a statutory right provided by law - as long as the redemptioner possesses all the essential requisites and comply with the requirements, such right need not be judicially declared in order for it to be enforced. The role of the court is only to ascertain whether the essential requisites and requirements are properly complied with. As the right of redemption is inherent to every co-heir or co-owner, denial of the said right must be explicitly and expressly provided and justified by the court and not by mere silence only. Silence of the decision in Civil Case No. 276 on the issue of [respondent's] right of redemption does not mean that the same was denied. Only the issues of filiation and the validity of the Deed of Sale with Declaration of Heirship were judicially determined by the lower court on the said case. Hence, in the instant case, this Court may rule upon the issue of redemption.^[12]

The Court of Appeals decreed in the end:

WHEREFORE, premises considered, the assailed Decision of the Regional Trial Court of Himamaylan City, Negros Occidental, Branch 56 dated July 27, 2001 is hereby REVERSED and SET ASIDE and a new one is

hereby ENTERED by recognizing [herein respondent's] legal right to redeem Lot No. 1138-A of Himamaylan Cadastre, Negros Occidental from [herein petitioners].

[Respondent] is hereby given thirty (30) days from the finality of this Decision within which to exercise his right of redemption over Lot No. 1138-A by reimbursing [petitioners] the price of the sale in the amount of P120,000.00 plus the total value of the improvements, if any, on the subject lot based on the current fair market value.

Failure of [respondent] to redeem the property within the period herein provided shall vest [petitioners] absolute right over subject property.[13]

Petitioners now come before this Court via the instant Petition for Review, insisting that respondent's right to redemption of the subject property from petitioners was among the causes of action already litigated in Civil Case No. 276 before RTC-Branch 55; and the very same cause of action between the same parties involving the same subject matter was merely duplicated in Civil Case No. 573 before RTC-Branch 56. Thus, the prior final judgment rendered in Civil Case No. 276 already barred Civil Case No. 573.

Respondent counters that Civil Case No. 573 before RTC-Branch 56 involving her legal right to redeem the subject property from petitioners cannot be deemed barred by the final judgment in Civil Case No. 276 rendered by RTC-Branch 55 because said issue was not explicitly ruled upon in the latter case.

We find merit in the instant Petition.

Res judicata means "a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment." It lays the rule that an existing final judgment or decree rendered on the merits, without fraud or collusion, by a court of competent jurisdiction, upon any matter within its jurisdiction, is conclusive of the rights of the parties or their privies, in all other actions or suits in the same or any other judicial tribunal of concurrent jurisdiction on the points and matters in issue in the first suit.[14]

It must be remembered that it is to the interest of the public that there should be an end to litigation by the parties over a subject fully and fairly adjudicated. The doctrine of res judicata is a rule that pervades every well-regulated system of jurisprudence and is founded upon two grounds embodied in various maxims of the common law, namely: (1) public policy and necessity, which dictates that it would be in the interest of the State that there should be an end to litigation -- republicae ut sit litium; and (2) the hardship on the individual that he should be vexed twice for the same cause -- nemo debet bis vexari pro una et eadem causa. A contrary doctrine would subject public peace and quiet to the will and neglect of individuals and prefer the gratification of the litigious disposition on the part of suitors to the preservation of public tranquility and happiness.[15]

Res judicata has two concepts. The first is bar by prior judgment under Rule 39, Section 47(b), and the second is conclusiveness of judgment under Rule 39, Section 47(c).[16] These concepts differ as to the extent of the effect of a judgment or final order as follows:

SEC. 47. Effect of judgments or final orders. - The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

x x x x

(b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and

(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have

been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

Jurisprudence taught us well that *res judicata* under the first concept or as a bar against the prosecution of a second action exists when there is identity of parties, subject matter and cause of action in the first and second actions. The judgment in the first action is final as to the claim or demand in controversy, including the parties and those in privity with them, not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose and of all matters that could have been adjudged in that case. In contrast, *res judicata* under the second concept or estoppel by judgment exists when there is identity of parties and subject matter but the causes of action are completely distinct. The first judgment is conclusive only as to those matters actually and directly controverted and determined and not as to matters merely involved herein.[17]

The case at bar satisfies the four essential requisites of *res judicata* under the first concept, bar by prior judgment, viz:

- (a) finality of the former judgment;
- (b) the court which rendered it had jurisdiction over the subject matter and the parties;
- (c) it must be a judgment on the merits; and
- (d) there must be, between the first and second actions, identity of parties, subject matter and causes of action.[18]

It is not disputed that the Decision dated May 8, 1996 of RTC-Branch 55 in Civil Case No. 276 had become final and executory. Petitioners no longer appealed the said decision, while respondent withdrew her appeal of the same before the Court of Appeals.

There is also no question that RTC-Branch 55 had jurisdiction over the subject matter and parties in Civil Case No. 276, and that its Decision dated May 8, 1996 was a judgment on the merits, i.e., one rendered after a consideration of the evidence or stipulations submitted by the parties at the trial of the case.[19]

Controversy herein arises from the fourth requirement: the identity of parties, subject matter and, particularly, the causes of action between Civil Case No. 276 and Civil Case No. 573.

There is identity of parties. Civil Case No. 276 and Civil Case No. 573 were both instituted by respondent against petitioners.

There is also identity of subject matter. Civil Case No. 276 and Civil Case No. 573 both involved respondent's rights and interests over the subject property as Francisco's legitimate child and compulsory heir.

Finally, there is identity of causes of action.

Section 2, Rule 2 of the Rules of Court defines a cause of action as "the act or omission by which a party violates a right of another." The cause of action in Civil Case No. 273 and Civil Case No. 576 is the sale of the entire subject property by Basilia, et al., to petitioners without respondent's knowledge and consent, hence, depriving respondent of her rights and interests over her pro-indiviso share in the subject property as a co-heir and co-owner. The annulment of the sale of respondent's share in the subject property, the legal redemption by respondent of her co-heirs' share sold to petitioners, and the claim for damages should not be mistaken to be the causes of action, but they were the remedies and reliefs prayed for by the respondent to redress the wrong allegedly committed against her.

The allegations in respondent's Complaint in Civil Case No. 573 initially give the impression that the cause of action therein was petitioners' refusal to heed respondent's demand to redeem petitioners' ten-eleventh (10/11) share in the subject property. But a closer study of said Complaint, as well as the trial proceedings before RTC-Branch 56, reveal that respondent's right to redeem petitioners' ten-eleventh (10/11) share in the subject property also arose from the sale of the said subject property to petitioners by respondent's co-heirs and co-owners, alleged to be without respondent's knowledge or consent - the very same cause of action at the crux of Civil Case No. 276.

In their Memorandum[20] filed on September 3, 2007 before this Court, respondent invoked Articles 1088 and 1620 of the Civil Code of the Philippines in support of their right to redeem the subject property. The said provisions state:

Art. 1088. Should any of the heirs sell his hereditary rights to a stranger before the partition, any or all of the co-heirs may be subrogated to the rights of the purchaser by reimbursing him for the price of the sale, provided they do so within the period of one month from the time they were notified in writing of the sale by the vendor.

x x x x

Art. 1620. A co-owner of a thing may exercise the right of redemption in case the shares of all the other co-owners or of any of them, are sold to a third person. If the price of the alienation is grossly excessive, the redemptioner shall pay only a reasonable one.

Should two or more co-owners desire to exercise the right of redemption, they may only do so in proportion to the share they may respectively have in the thing owned in common.

In her Complaint in Civil Case No. 276, respondent already alleged her right to redemption and prayed, among others, the RTC-Branch 55 to order respondent legally entitled to redeem the subject property for the price of P52,000.00. The Decision dated May 8, 1996 of the RTC-Branch 55 neither discussed respondent's right to redemption nor ordered in its decretal portion for petitioners to accept respondent's offer to redeem the subject property. In consonance with the provisions of Rule 39, Section 47 of the Rules of Court cited above, we hold that all the matters within the issues raised in Civil Case No. 276 were laid before RTC-Branch 55 and passed upon by it. Resultantly, the silence of the Decision dated May 8, 1996 in Civil Case No. 276 on respondent's right to redemption invoked by the latter does not mean that RTC-Branch 55 did not take cognizance of the same, but rather, that RTC-Branch 55 did not deem respondent entitled to said right.

Regardless of whether or not RTC-Branch 55 erred in not ordering the redemption by respondent of the subject property in the Decision dated May 8, 1996 in Civil Case No. 276, said judgment can no longer be reviewed or corrected by RTC-Branch 56 in Civil Case No. 573. Any error committed by RTC-Branch 55 in the Decision dated May 8, 1996 in Civil Case No. 276 could only be reviewed or corrected on appeal. Although respondent initially filed an appeal of said judgment before the Court of Appeals, she eventually filed a motion to withdraw the same, which was granted by the appellate court. Hence, the Decision dated May 8, 1996 attained finality.

As we held in *Ram's Studio and Photographic Equipment, Inc. v. Court of Appeals*,[21] a judgment which has acquired finality becomes immutable and unalterable, hence, may no longer be modified in any respect except to correct clerical errors or mistakes, all the issues between the parties being deemed resolved and laid to rest. We added in *Manila Electric Company v. Philippine Consumers Foundation, Inc.*[22] that a final and executory judgment or order can no longer be disturbed or reopened no matter how erroneous it may be. Although judicial determinations are not infallible, judicial error should be corrected through appeals, not through repeated suits on the same claim.

We rationalized in *Navarro v. Metropolitan Bank & Trust Company*[23] the doctrine of immutability of a final judgment as follows:

No other procedural law principle is indeed more settled than that once a judgment becomes final, it is no longer subject to change, revision, amendment or reversal, except only for correction of clerical errors, or the making of nunc pro tunc entries which cause no prejudice to any party, or where the judgment itself is void. The underlying reason for the rule is two-fold: (1) to avoid delay in the administration of justice and thus make orderly the discharge of judicial business, and (2) to put judicial controversies to an end, at the risk of occasional errors, inasmuch as controversies cannot be allowed to drag on indefinitely and the rights and obligation of every litigant must not hang in suspense for an indefinite period of time. As the Court declared in *Yau v. Silverio*:

Litigation must end and terminate sometime and somewhere, and it is essential to an effective and efficient administration of justice that, once a judgment has become final, the winning party be, not through a mere subterfuge, deprived of the fruits of the verdict. Courts must therefore guard against any scheme calculated to bring about that result. Constituted as they are to put an end to controversies, courts should frown upon any attempt to prolong them.

Indeed, just as a losing party has the right to file an appeal within the prescribed period, the winning party also has the correlative right to enjoy the finality of the resolution of his case by the execution and satisfaction of the judgment. Any attempt to thwart this rigid rule and deny the prevailing litigant his right to savor the fruit of his victory must immediately be struck down. Thus, in *Heirs of Wenceslao Samper v. Reciproco-Noble*, we had occasion to emphasize the significance of this rule, to wit:

It is an important fundamental principle in our Judicial system that every litigation must come to an end x x x Access to the courts is guaranteed. But there must be a limit thereto. Once a litigant's rights have been adjudicated in a valid final judgment of a competent court, he should not be granted an unbridled license to come back for another try. The prevailing party should not be harassed by subsequent suits. For, if endless litigations were to be encouraged, then unscrupulous litigants will multiply in number to the detriment of the administration of justice.[24]

Exceptions to the immutability of final judgment are allowed only under the most extraordinary of circumstances. The instant case cannot be considered an exception especially when respondent had the opportunity to appeal the Decision dated May 8, 1996 of RTC-Branch 55 in Civil Case No. 276, but by her own action, desisted from pursuing the same.

Therefore, Civil Case No. 573 before RTC-Branch 56 should be dismissed, being barred by res judicata, given the final and executory Decision dated May 8, 1996 of RTC-Branch 55 in Civil Case No. 276. We stress that res judicata, in the concept of bar by prior judgment, renders the judgment or final order conclusive between the parties and their privies, not just with respect to a matter directly adjudged, but also any other matter that could have been raised in relation thereto.

WHEREFORE, the instant Petition is hereby GRANTED. The Decision dated May 31, 2006 and Resolution dated September 28, 2006 of the Court Appeals in CA-G.R. CV No. 72987 are SET ASIDE. The Decision dated July 27, 2001 of Branch 56 of the Regional Trial Court of Himamaylan City, Negros Occidental, dismissing Civil Case No. 573, is REINSTATED.

SO ORDERED.

Corona, C.J., (Chairperson), Bersamin, Del Castillo, and Perez,[*] JJ., concur.

[*] Per Special Order No. 1080 dated September 13, 2011.

[1] Rollo, pp. 22-30; penned by Associate Justice Arsenio J. Magpale with Associate Justices Vicente L. Yap and Apolinario D. Bruselas, Jr., concurring.

[2] Id. at 31-32.

[3] CA rollo, pp. 36-39.

[4] Records, p. 28.

[5] Id. at 28-29.

[6] Id. at 13.

[7] Id. at 13-14.

[8] Id. at 69.

[9] Id. at 20-25.

[10] CA rollo, pp. 37-39.

[11] Rollo, p. 26.

[12] Id. at 28-29.

[13] Id. at 29.

[14] Pentacapital Investment Corp. v. Mahinay, G.R. No. 171736, July 5, 2010, 623 SCRA 284, 307.

[15] La Campana Development Corp. v. Development Bank of the Philippines, G.R. No. 146157, February 13, 2009, 579 SCRA 137, 158-159.

[16] Co v. People, G.R. No. 160265, July 13, 2009, 592 SCRA 381, 393.

[17] Gamboa v. Court of Appeals, 194 Phil. 624, 642-643 (1981).

[18] Del Rosario v. Far East Bank and Trust Company, G.R. No. 150134, October 31, 2007, 537 SCRA 571, 584.

[19] Dayot v. Shell Chemical Company (Phils.), Inc., G.R. No. 156542, June 26, 2007, 525 SCRA 535, 546.

[20] Rollo, pp. 55-57.

[21] 400 Phil. 542, 550 (2000).

[22] 425 Phil. 65, 83 (2002).

[23] G.R. Nos. 165697 and 166481, August 4, 2009, 595 SCRA 149.

[24] Id. at 159-160.

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