SUSANA MANGLICMOT VDA. DE BITANGCOL, EDNA BITANGCOL AND TERESITA BITANGCOL, PLAINTIFFS-APPELLEES, VS. SPOUSES FORTUNATO AND CONCHITA LABARIN, DEFENDANTS-APPELLANTS.

Ponente: BARRIOS, J.

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BARRIOS, J.:

The spouses Fortunato and Conchita Labarin (or the Labarins for brevity) appealed to this Court the decision dated October 15, 2002 rendered by the Regional Trial Court stationed in Olongapo City (or RTC), in a case of Recovery of Ownership filed against them by Susana Manglicmot Vda. de Bitangcol and her daughters Edna and Teresita Bitangcol (or the Bitangcols unless individually referred to by their first names).

The subject of the suit is a portion of a 4,822 square meters lot in Brgy. Sta. Rita, Olongapo City which was originally titled on November 21, 1911 and since covered by Transfer Certificate of Title No. T-7091 issued in the name of the Estate of Gavino Bitangcol (or Gavino). Gavino was the husband of Susana and the father of Edna and Teresita. He died on July 11, 1983 and his estate was settled in Special Proceeding No. 270-0-84 (Exh. “G”, pp. 90-92, record) of the RTC where this property covered by TCT T-7091 was the subject of a Compromise Agreement (Exh. “G”, pp. 94-97, record) adjudicating this lot to the Bitangcols. This was approved in the decision dated June 6, 1989.

The Labarins are occupying more or less a 700 square meters portion of the property covered by TCT T-7091 wherein a house was erected. On July 25, 1989 the Bitangcols sent a letter to the Labarins (Exh. “B”, p. 85, record) demanding that they vacate the portion they are occupying. The Labarins refused, and so the dispute was brought before the proper authorities. Conciliation failed, so the Bitangcols filed a case of ejectment against the Labarins before the Municipal Trial Court in Cities of Olongapo City which however ruled that the proper action should be for recovery of ownership and not ejectment, and so the complaint was dismissed for lack of jurisdiction.

Conformably the Bitangcols then filed the instant complaint to recover the 748 square meters being occupied by the Labarins.

In their complaint, the Bitangcols averred that the Labarins were employed with Gavino. Sometime in 1968 they asked Gavino to allow them to live in the house erected on a portion of said lot with the condition that they will vacate this once Gavino or his heirs will have need of the property. Gavino acceded. But when the time came, the Labarins refused to vacate the property and upon their receipt of the letter demanding that they to do so they instead filed a Miscellaneous Sales Application with the Bureau of Lands. Incidental to the prayer of the Bitangcols that the Labarins vacate the property, was the payment of rentals of P2,00.00 per month.

The Labarins confuted these, contending in their Answer that it was they who built the house and that the lot on which it was erected was given to them by Gavino as a reward for their faithful services. It was given with no condition attached that Gavino or any of his heirs may reclaim this. Because the lot was already given to them by Gavino, they filed a Miscellaneous Sales Application with the Bureau of Lands whose records showed that this

land is alienable and disposable and not yet covered by an application. According to the Labarins they have been in possession of the said property openly and adversely and in the concept of an owner for more than 31 years, hence their possession has ripened into ownership and bars by prescription the complaint of the Bitangcols.

Trial ensued, and evaluating the evidence presented the court a quo rendered its judgment in favor of the Bitangcols, disposing that:

> WHEREFORE, premises considered, judgment is hereby ordered in favor of the plaintiffs:
>
> 1.) Declaring the property in question containing an area 748 sq. meters as included in TCT No. T-7091 registered under the Estate of Gavino Bitangcol:
>
> 2.) Ordering the defendants and all other persons claiming under (sic) likewise to deliver possession of said property to the plaintiffs; and,
>
> 3.) Costs of suit.(p. 298, record)

Dissatisfied, the Labarins brought this appeal assigning the following as the reversible errors committed by the court a quo:

> A. The Lower Court committed grave error in declaring the lot in question containing an area of 748 square meters as included in the estate of Gavino Bitangcol particularly under TCT No. T-7091 and ordering the defendants to deliver possession of said property to the plaintiffs.
>
> B. The Lower Court committed grave error in ignoring defendants-appellants' special and affirmative defenses that they are entitled to the possession and ownership of the subject parcel of land as well as their counter-claim for damages. (p. 89, rollo)

The appeal lacks merit.

The court a quo did not err in declaring that the litigated 748 square meters portion occupied by the Labarins is part of the property titled and registered in the name of Gavino. This is supported by Exh. “M” (p. 115, record), the survey plan submitted by the Bitangcols. And so also by the survey plan prepared for by the Labarins (Exh. “23”, p. 221, record) showing that the disputed area is within the 4,822 square meters indicated in the TCT T-7091 of Gavino. The testimony of the Labarins' own witness Armando Lorenzo, a land surveyor aid and also a former employee of Gavino, corroborates the point. He said:

> Q Who owns the lot where Mr. Gavibo Bitangcol was residing then?
>
> A As far as I know, during those days, the lot was owned by Epifania Espiritu?
>
> Q Why do you say that – that it was owned by Epifania Espiritu?
>
> A The lot was purchased by Mr. Bitangcol from Ms. Epifania Espiritu.
>
> Q And what about the lot which was given to the spouses Fortunato and Conchita Labarin, was that a portion of the lot which was purchased by Mr. Bitangcol from Epifania Espiritu?
>
> A Yes, sir. (tsn, October 31, 1997, pp. 8-9)

At the cross-examination he added that:

> Q I am showing to you Exh. “S” which is a Plan for the land previously for Spouses Fortunato and Conchita G. Aguila (sic), is this the plan of the land surveyed by Engr. Aguila which you mentioned a while ago?
>
> A Yes, sir.

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> Q The land which you claimed was acquired by Gavino Bitangcol from Mrs. Espiritu?
>
> A I cannot recall.
>
> Q Since you claim you are a survey aid, please go over the vicinity map of this land with the name Gavino Bitangcol and the adjoining lot owner – Fortunato Labarin, Emma Pineda, Adam Lopez, is this the whole lot purchased by Gavino Bitangcol from Epifanio Espiritu?
>
> A Yes, sir.
>
> Q The defendant said Fortunato Labarin's occupied place is besides the house of Emma Lopez, can you testify now that Emma Lopez is occupying this portion in the plan?
>
> A Yes, sir.
>
> Q And this Emma Lopez is the same plaintiff Emma Bitangcol in this case.
>
> A Yes, sir. (tsn, pp. 28-29)

These indeed show that the area occupied by the Labarins is part of the lot owned by Gavino.

Even if it be assumed as alleged by the Labarins that the portion they occupy was given to them by Gavino, still this will not affect the judgment being assailed because such donation would be a worthless nullity. In order that the donation of an immovable property may be valid, it must be made in a public document (Heirs of Rosendo Sevilla Florencio vs. Heirs of Teresita Sevilla de Leon, 425 SCRA 447). Obviously this sine qua non requisite is wanting in the verbal donation claimed by the Labarins.

Emphasis should be given to the letter of Conchita Labarin to the Bitangcols dated February 24, 1984 (Exh “D”, p. 87, record). Said letter contains that:

> Dear Mesdames Bitangcol:
>
> It came to our knowledge that you are the new owners of the apartment house located at Sta. Rita Road, Olongapo City which you inherited from the late Gavino Bitangcol, and which we have been occupying as tenants thereof, particularly Unit No 1136 and Unit No. 1134-B, both adjunct of the same.
>
> We most respectfully request that your goodselves continuously recognize us as your tenants in the said premises, under the same terms and conditions we had with Gavino Bitangcol during the lifetime of the latter.
>
> We promise and undertake to vacate each unit we are occupying whenever you would need the same for any purpose.
>
> Very truly yours,
>
> (signed) CONCHITA LABARIN

The genuineness of the signature of Conchita Labarin in said letter was confirmed by the National Bureau of Investigation when this was submitted for scrutiny. In the report of the NBI, it was concluded that:

> The questioned and the standards were written by one and the same person. (Exh. “K-4”, p. 113, record)

This admission in writing speaks for itself, and is the coup de grace to the mortally injured pretensions of the Labarins.

The Labarins too raised the issue of prescription, acquisitive prescription over the land and extinctive prescription as to the cause of action. Both must fail.

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Under Article 1126 of the Civil Code, prescription of ownership of lands registered under the Land Registration Act shall be governed by special laws. Correlatively, Act No. 496 provides that no title to registered land in derogation of that of the registered owner shall be acquired by adverse possession. Consequently, proof of possession by the defendants is both immaterial and inconsequential (Caraan vs. Court of Appeals, G. R. No. 140752, Nov. 11, 2005). As for extinctive prescription, suffice it to say that the adverse claim of the Labarins and the acts which could support this, are too recent to support the prescription claimed.
WHEREFORE, the appeal is DENIED and the decision appealed from is AFFIRMED.

SO ORDERED.

Guariña, III and Tagle, JJ., concur.

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