

THE HEIRS OF MARCELINO DORONIO, NAMELY: REGINA AND FLORA, BOTH SURNAMED DORONIO, PETITIONERS, VS. HEIRS OF FORTUNATO DORONIO, NAMELY: TRINIDAD ROSALINA DORONIO-BALMES, MODING DO...

G.R. No. 169454. December 27, 2007

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

For Our review on certiorari is the Decision[1] of the Court of Appeals (CA) reversing that[2] of the Regional Trial Court (RTC), Branch 45, Anonas, Urdaneta City, Pangasinan, in an action for reconveyance and damages. The CA declared respondents as rightful owners of one-half of the subject property and directed petitioners to execute a registerable document conveying the same to respondents.

The Facts

Spouses Simeon Doronio and Cornelia Gante, now both deceased, were the registered owners of a parcel of land located at Barangay Cabalitaan, Asingan, Pangasinan covered by Original Certificate of Title (OCT) No. 352.[3] The courts below described it as follows:

Un terreno (Lote 1018), situada en el municipio de Asingan, Linda por el NE; con propiedad de Gabriel Bernardino; con el SE con propiedad de Zacarias Najorda y Alejandro Najorda; por el SO con propiedad de Geminiano Mendoza y por el NO con el camino para Villasis; midiendo una extension superficial mil ciento cincuenta y dos metros cuadrados.[4]

The spouses had children but the records fail to disclose their number. It is clear, however, that Marcelino Doronio and Fortunato Doronio, now both deceased, were among them and that the parties in this case are their heirs. Petitioners are the heirs of Marcelino Doronio, while respondents are the heirs of Fortunato Doronio.

On April 24, 1919, a private deed of donation propter nuptias[5] was executed by spouses Simeon Doronio and Cornelia Gante in favor of Marcelino Doronio and the latter's wife, Veronica Pico. One of the properties subject of said deed of donation is the one that it described as follows:

Fourth – A piece of residential land located in the barrio of Cabalitian but we did not measure it, the area is bounded on the north by Gabriel Bernardino; on the east by Fortunato Doronio; on the south by Geminiano Mendoza and on the west by a road to Villasis. Constructed on said land is a house of light materials – also a part of the dowry. Value ...200.00.[6]

It appears that the property described in the deed of donation is the one covered by OCT No. 352. However, there is a significant discrepancy with respect to the identity of the owner of adjacent property at the eastern side. Based on OCT No. 352, the adjacent owners are Zacarias Najorda and Alejandro Najorda, whereas based on the deed of donation, the owner of the adjacent property is Fortunato Doronio. Furthermore, said deed of donation remained a private document as it was never notarized.[7]

Both parties have been occupying the subject land for several decades[8] although they have different theories regarding its present ownership. According to petitioners, they are now the owners of the entire property in view of the private deed of donation propter nuptias in favor of their predecessors, Marcelino Doronio and Veronica Pico.

Respondents, on the other hand, claim that only half of the property was actually incorporated in the said deed of donation because it stated that Fortunato Doronio, instead of Zacarias Najorda and Alejandro Najorda, is the owner of the adjacent property at the eastern side. Respondents posit that the donors respected and segregated the possession of Fortunato Doronio of the eastern half of the land. They are the ones who have been possessing said land occupied by their predecessor, Fortunato Doronio.

Eager to obtain the entire property, the heirs of Marcelino Doronio and Veronica Pico filed, on January 11, 1993, before the RTC in Urdaneta, Pangasinan a petition "For the Registration of a Private Deed of Donation"[9] docketed as Petition Case No. U-920. No respondents were named in the said petition[10] although notices of hearing were posted on the bulletin boards of Barangay Cabalitaan, Municipalities of Asingan and Lingayen.[11]

During the hearings, no one interposed an objection to the petition.[12] After the RTC ordered a general default,[13] the petition was eventually granted on September 22, 1993. This led to the registration of the deed of donation, cancellation of OCT No. 352 and issuance of a new Transfer Certificate of Title (TCT) No. 44481 in the names of Marcelino Doronio and Veronica Pico.[14] Thus, the entire property was titled in the names of petitioners' predecessors.

On April 28, 1994, the heirs of Fortunato Doronio filed a pleading before the RTC in the form of a petition in the same Petition Case No. U-920. The petition was for the reconsideration of the decision of the RTC that ordered the registration of the subject deed of donation. It was prayed in the petition that an order be issued declaring null and void the registration of the private deed of donation and that TCT No. 44481 be cancelled. However, the petition was dismissed on May 13, 1994 on the ground that the decision in Petition Case No. U-920 had already become final as it was not appealed.

Determined to remain in their possessed property, respondent heirs of Fortunato Doronio (as plaintiffs) filed an action for reconveyance and damages with prayer for preliminary injunction[15] against petitioner heirs of Marcelino Doronio (as defendants) before the RTC, Branch 45, Anonas, Urdaneta City, Pangasinan. Respondents contended, among others, that the subject land is different from what was donated as the descriptions of the property under OCT No. 352 and under the private deed of donation were different. They posited that spouses Simeon Doronio and Cornelia Gante intended to donate only one-half of the property.

During the pre-trial conference, the parties stipulated, among others, that the property was originally covered by OCT No. 352 which was cancelled by TCT No. 44481. They also agreed that the issues are: (1) whether or not there was a variation in the description of the property subject of the private deed of donation and OCT No. 352; (2) whether or not respondents had acquired one-half of the property covered by OCT No. 352 by acquisitive prescription; (3) whether or not the transfer of the whole property covered by OCT No. 352 on the basis of the registration of the private deed of donation notwithstanding the discrepancy in the description is valid; (4) whether or not respondents are entitled to damages; and (5) whether or not TCT No. 44481 is valid.[16]

RTC Decision

After due proceedings, the RTC ruled in favor of petitioner heirs of Marcelino Doronio (defendants). It concluded that the parties admitted the identity of the land which they all occupy;[17] that a title once registered under the torrens system cannot be defeated by adverse, open and notorious possession or by prescription;[18] that the deed

of donation in consideration of the marriage of the parents of petitioners is valid, hence, it led to the eventual issuance of TCT No. 44481 in the names of said parents;[19] and that respondent heirs of Fortunato Doronio (plaintiffs) are not entitled to damages as they are not the rightful owners of the portion of the property they are claiming.[20]

The RTC disposed of the case, thus:

WHEREFORE, premises considered, the Court hereby renders judgment DISMISSING the herein Complaint filed by plaintiffs against defendants.[21]

Disagreeing with the judgment of the RTC, respondents appealed to the CA. They argued that the trial court erred in not finding that respondents' predecessor-in-interest acquired one-half of the property covered by OCT No. 352 by tradition and/or intestate succession; that the deed of donation dated April 26, 1919 was null and void; that assuming that the deed of donation was valid, only one-half of the property was actually donated to Marcelino Doronio and Veronica Pico; and that respondents acquired ownership of the other half portion of the property by acquisitive prescription.[22]

CA Disposition

In a Decision dated January 26, 2005, the CA reversed the RTC decision with the following disposition:

WHEREFORE, the assailed Decision dated June 28, 2002 is REVERSED and SET ASIDE. Declaring the appellants as rightful owners of one-half of the property now covered by TCT No. 44481, the appellees are hereby directed to execute a registerable document conveying the same to appellants.

SO ORDERED.[23]

The appellate court determined that "(t)he intention to donate half of the disputed property to appellees' predecessors can be gleaned from the disparity of technical descriptions appearing in the title (OCT No. 352) of spouses Simeon Doronio and Cornelia Gante and in the deed of donation propter nuptias executed on April 24, 1919 in favor of appellees' predecessors." [24]

The CA based its conclusion on the disparity of the following technical descriptions of the property under OCT No. 352 and the deed of donation, to wit:

The court below described the property covered by OCT No. 352 as follows:

"Un terreno (Lote 1018), situada en el municipio de Asingan, Linda por el NE; con propiedad de Gabriel Bernardino; con el SE con propiedad de Zacarias Najorda y Alejandro Najorda; por el SO con propiedad de Geminiano Mendoza y por el NO con el camino para Villasis; midiendo una extension superficial mil ciento cincuenta y dos metros cuadrados."

On the other hand, the property donated to appellees' predecessors was described in the deed of donation as:

"Fourth – A piece of residential land located in the barrio of Cabalitian but we did not measure it, the area is bounded on the north by Gabriel Bernardino; on the east by Fortunato Doronio; on the south by Geminiano Mendoza and on the west by a road to Villasis. Constructed on said land is a house of light materials – also a part of the dowry. Value ...200.00." [25] (Emphasis ours)

Taking note "that the boundaries of the lot donated to Marcelino Doronio and Veronica Pico differ from the boundaries of the land owned by spouses Simeon Doronio and Cornelia Gante," the CA concluded that spouses Simeon Doronio and Cornelia Gante donated only half of the property covered by OCT No. 352.[26]

Regarding the allegation of petitioners that OCT No. 352 is inadmissible in evidence, the CA pointed out that, "while the OCT is written in the Spanish language, this document already forms part of the records of this case for

failure of appellees to interpose a timely objection when it was offered as evidence in the proceedings a quo. It is a well-settled rule that any objection to the admissibility of such evidence not raised will be considered waived and said evidence will have to form part of the records of the case as competent and admitted evidence." [27]

The CA likewise ruled that the donation of the entire property in favor of petitioners' predecessors is invalid on the ground that it impairs the legitime of respondents' predecessor, Fortunato Doronio. On this aspect, the CA reasoned out:

Moreover, We find the donation of the entire property in favor of appellees' predecessors invalid as it impairs the legitime of appellants' predecessor. Article 961 of the Civil Code is explicit. "In default of testamentary heirs, the law vests the inheritance, x x x, in the legitimate x x x relatives of the deceased, x x x." As Spouses Simeon Doronio and Cornelia Gante died intestate, their property shall pass to their lawful heirs, namely: Fortunato and Marcelino Doronio. Donating the entire property to Marcelino Doronio and Veronica Pico and excluding another heir, Fortunato, tantamounts to divesting the latter of his rightful share in his parents' inheritance. Besides, a person's prerogative to make donations is subject to certain limitations, one of which is that he cannot give by donation more than what he can give by will (Article 752, Civil Code). If he does, so much of what is donated as exceeds what he can give by will is deemed inofficious and the donation is reducible to the extent of such excess. [28]

Petitioners were not pleased with the decision of the CA. Hence, this petition under Rule 45.

Issues

Petitioners now contend that the CA erred in:

- DECLARING ADMISSIBILITY OF THE ORIGINAL CERTIFICATE OF TITLE NO. 352 DESPITE OF LACK OF TRANSLATION THEREOF.
- (RULING THAT) ONLY HALF OF THE DISPUTED PROPERTY WAS DONATED TO THE PREDECESSORS-IN-INTEREST OF THE HEREIN APPELLANTS.
- (ITS) DECLARATION THAT THE DONATION PROPTER NUPTIAS IS INNOFICIOUS, IS PREMATURE, AND THUS IT IS ILLEGAL AND UNPROCEDURAL. [29]

Our Ruling

OCT No. 352 in Spanish Although Not
Translated into English or Filipino Is
Admissible For Lack of Timely Objection

Petitioners fault the CA for admitting OCT No. 352 in evidence on the ground that it is written in Spanish language. They posit that "(d)ocumentary evidence in an unofficial language shall not be admitted as evidence, unless accompanied with a translation into English or Filipino." [30]

The argument is untenable. The requirement that documents written in an unofficial language must be accompanied with a translation in English or Filipino as a prerequisite for its admission in evidence must be insisted upon by the parties at the trial to enable the court, where a translation has been impugned as incorrect, to decide the issue. [31] Where such document, not so accompanied with a translation in English or Filipino, is offered in evidence and not objected to, either by the parties or the court, it must be presumed that the language in which the document is written is understood by all, and the document is admissible in evidence. [32]

Moreover, Section 36, Rule 132 of the Revised Rules of Evidence provides:

SECTION 36. Objection. – Objection to evidence offered orally must be made immediately after the offer is

made.

Objection to a question propounded in the course of the oral examination of a witness shall be made as soon as the grounds therefor shall become reasonably apparent.

An offer of evidence in writing shall be objected to within three (3) days after notice of the offer unless a different period is allowed by the court.

In any case, the grounds for the objections must be specified. (Emphasis ours)

Since petitioners did not object to the offer of said documentary evidence on time, it is now too late in the day for them to question its admissibility. The rule is that evidence not objected may be deemed admitted and may be validly considered by the court in arriving at its judgment.[33] This is true even if by its nature, the evidence is inadmissible and would have surely been rejected if it had been challenged at the proper time.[34]

As a matter of fact, instead of objecting, petitioners admitted the contents of Exhibit "A," that is, OCT No. 352 in their comment[35] on respondents' formal offer of documentary evidence. In the said comment, petitioners alleged, among others, that "Exhibits A, B, C, D, E, F and G, are admitted but not for the purpose they are offered because these exhibits being public and official documents are the best evidence of that they contain and not for what a party would like it to prove." [36] Said evidence was admitted by the RTC.[37] Once admitted without objection, even though not admissible under an objection, We are not inclined now to reject it.[38] Consequently, the evidence that was not objected to became property of the case, and all parties to the case are considered amenable to any favorable or unfavorable effects resulting from the said evidence.[39]

Issues on Impairment of Legitime
Should Be Threshed Out in a Special
Proceeding, Not in Civil Action for
Reconveyance and Damages

On the other hand, petitioners are correct in alleging that the issue regarding the impairment of legitime of Fortunato Doronio must be resolved in an action for the settlement of estates of spouses Simeon Doronio and Cornelia Gante. It may not be passed upon in an action for reconveyance and damages. A probate court, in the exercise of its limited jurisdiction, is the best forum to ventilate and adjudge the issue of impairment of legitime as well as other related matters involving the settlement of estate.[40]

An action for reconveyance with damages is a civil action, whereas matters relating to settlement of the estate of a deceased person such as advancement of property made by the decedent, partake of the nature of a special proceeding. Special proceedings require the application of specific rules as provided for in the Rules of Court.[41]

As explained by the Court in *Natcher v. Court of Appeals*: [42]

Section 3, Rule 1 of the 1997 Rules of Civil Procedure defines civil action and special proceedings, in this wise:

x x x a) A civil action is one by which a party sues another for the enforcement or protection of a right, or the prevention or redress of a wrong.

A civil action may either be ordinary or special. Both are governed by the rules for ordinary civil actions, subject to specific rules prescribed for a special civil action.

x x x x

c) A special proceeding is a remedy by which a party seeks to establish a status, a right or a particular fact.

As could be gleaned from the foregoing, there lies a marked distinction between an action and a special proceeding. An action is a formal demand of one's right in a court of justice in the manner prescribed by the court or by the law. It is the method of applying legal remedies according to definite established rules. The term "special proceeding" may be defined as an application or proceeding to establish the status or right of a party, or a particular fact. Usually, in special proceedings, no formal pleadings are required unless the statute expressly so provides. In special proceedings, the remedy is granted generally upon an application or motion.

Citing American Jurisprudence, a noted authority in Remedial Law expounds further:

It may accordingly be stated generally that actions include those proceedings which are instituted and prosecuted according to the ordinary rules and provisions relating to actions at law or suits in equity, and that special proceedings include those proceedings which are not ordinary in this sense, but is instituted and prosecuted according to some special mode as in the case of proceedings commenced without summons and prosecuted without regular pleadings, which are characteristics of ordinary actions x x x. A special proceeding must therefore be in the nature of a distinct and independent proceeding for particular relief, such as may be instituted independently of a pending action, by petition or motion upon notice.

Applying these principles, an action for reconveyance and annulment of title with damages is a civil action, whereas matters relating to settlement of the estate of a deceased person such as advancement of property made by the decedent, partake of the nature of a special proceeding, which concomitantly requires the application of specific rules as provided for in the Rules of Court.

Clearly, matters which involve settlement and distribution of the estate of the decedent fall within the exclusive province of the probate court in the exercise of its limited jurisdiction.

Thus, under Section 2, Rule 90 of the Rules of Court, questions as to advancement made or alleged to have been made by the deceased to any heir may be heard and determined by the court having jurisdiction of the estate proceedings, and the final order of the court thereon shall be binding on the person raising the questions and on the heir.

While it may be true that the Rules used the word "may," it is nevertheless clear that the same provision contemplates a probate court when it speaks of the "court having jurisdiction of the estate proceedings."

Corollarily, the Regional Trial Court in the instant case, acting in its general jurisdiction, is devoid of authority to render an adjudication and resolve the issue of advancement of the real property in favor of herein petitioner Natcher, inasmuch as Civil Case No. 71075 for reconveyance and annulment of title with damages is not, to our mind, the proper vehicle to thresh out said question. Moreover, under the present circumstances, the RTC of Manila, Branch 55, was not properly constituted as a probate court so as to validly pass upon the question of advancement made by the decedent Graciano Del Rosario to his wife, herein petitioner Natcher.

We likewise find merit in petitioners' contention that before any conclusion about the legal share due to a compulsory heir may be reached, it is necessary that certain steps be taken first.[43] The net estate of the decedent must be ascertained, by deducting all payable obligations and charges from the value of the property owned by the deceased at the time of his death; then, all donations subject to collation would be added to it. With the partible estate thus determined, the legitime of the compulsory heir or heirs can be established; and only then can it be ascertained whether or not a donation had prejudiced the legitimes.[44]

Declaration of Validity of Donation
Can Be Challenged by an Interested
Party Not Impleaded in Petition for
Quieting of Title or Declaratory Relief

or Where There is No Res Judicata.
Moreover, This Court Can Consider
a Factual Matter or Unassigned Error
in the Interest of Substantial Justice.

Nevertheless, petitioners cannot preclude the determination of validity of the deed of donation on the ground that (1) it has been impliedly admitted by respondents; (2) it has already been determined with finality by the RTC in Petition Case No. U-920; or (3) the only issue in an action for reconveyance is who has a better right over the land.[45]

The validity of the private deed of donation propter nuptias in favor of petitioners' predecessors was one of the issues in this case before the lower courts. The pre-trial order[46] of the RTC stated that one of the issues before it is "(w)hether or not the transfer of the whole property covered by OCT No. 352 on the basis of the private deed of donation notwithstanding the discrepancy in the description is valid." Before the CA, one of the errors assigned by respondents is that "THE TRIAL COURT ERRED IN NOT FINDING THAT THE PRIVATE DEED OF DONATION DATED APRIL 26, 1919 WAS NULL AND VOID." [47]

The issue of the validity of donation is likewise brought to Us by petitioners as they stated in their Memorandum[48] that one of the issues to be resolved is regarding the alleged fact that "THE HONORABLE COURT OF APPEALS ERRED IN FINDING THE DONATION INVALID." We are thus poised to inspect the deed of donation and to determine its validity.

We cannot agree with petitioners' contention that respondents may no longer question the validity of the deed of donation on the ground that they already impliedly admitted it. Under the provisions of the Civil Code, a void contract is inexistent from the beginning. The right to set up the defense of its illegality cannot be waived.[49] The right to set up the nullity of a void or non-existent contract is not limited to the parties as in the case of annulable or voidable contracts; it is extended to third persons who are directly affected by the contract.[50]

Consequently, although respondents are not parties in the deed of donation, they can set up its nullity because they are directly affected by the same.[51] The subject of the deed being the land they are occupying, its enforcement will definitely affect them.

Petitioners cannot also use the finality of the RTC decision in Petition Case No. U-920[52] as a shield against the verification of the validity of the deed of donation. According to petitioners, the said final decision is one for quieting of title.[53] In other words, it is a case for declaratory relief under Rule 64 (now Rule 63) of the Rules of Court, which provides:

SECTION 1. Who may file petition. – Any person interested under a deed, will, contract or other written instrument, or whose rights are affected by a statute, executive order or regulation, or ordinance, may, before breach or violation thereof, bring an action to determine any question of construction or validity arising under the instrument or statute and for a declaration of his rights or duties thereunder.

An action for the reformation of an instrument, to quiet title to real property or remove clouds therefrom, or to consolidate ownership under Article 1607 of the Civil Code, may be brought under this rule.

SECTION 2. Parties. – All persons shall be made parties who have or claim any interest which would be affected by the declaration; and no declaration shall, except as otherwise provided in these rules, prejudice the rights of persons not parties to the action. (Emphasis ours)

However, respondents were not made parties in the said Petition Case No. U-920. Worse, instead of issuing summons to interested parties, the RTC merely allowed the posting of notices on the bulletin boards of Barangay

Cabalitaan, Municipalities of Asingan and Lingayen, Pangasinan. As pointed out by the CA, citing the ruling of the RTC:

x x x In the said case or Petition No. U-920, notices were posted on the bulletin boards of barangay Cabalitaan, Municipalities of Asingan and Lingayen, Pangasinan, so that there was a notice to the whole world and during the initial hearing and/or hearings, no one interposed objection thereto.[54]

Suits to quiet title are not technically suits in rem, nor are they, strictly speaking, in personam, but being against the person in respect of the res, these proceedings are characterized as quasi in rem.[55] The judgment in such proceedings is conclusive only between the parties.[56] Thus, respondents are not bound by the decision in Petition Case No. U-920 as they were not made parties in the said case.

The rules on quieting of title[57] expressly provide that any declaration in a suit to quiet title shall not prejudice persons who are not parties to the action.

That respondents filed a subsequent pleading[58] in the same Petition Case No. U-920 after the decision there had become final did not change the fact that said decision became final without their being impleaded in the case. Said subsequent pleading was dismissed on the ground of finality of the decision.[59]

Thus, the RTC totally failed to give respondents their day in court. As a result, they cannot be bound by its orders. Generally accepted is the principle that no man shall be affected by any proceeding to which he is a stranger, and strangers to a case are not bound by judgment rendered by the court.[60]

Moreover, for the principle of res judicata to apply, the following must be present: (1) a decision on the merits; (2) by a court of competent jurisdiction; (3) the decision is final; and (4) the two actions involve identical parties, subject matter and causes of action.[61] The fourth element is not present in this case. The parties are not identical because respondents were not impleaded in Petition Case No. U-920. While the subject matter may be the same property covered by OCT No. 352, the causes of action are different. Petition Case No. U-920 is an action for declaratory relief while the case below is for recovery of property.

We are not persuaded by petitioners' posture that the only issue in this action for reconveyance is who has a better right over the land; and that the validity of the deed of donation is beside the point.[62] It is precisely the validity and enforceability of the deed of donation that is the determining factor in resolving the issue of who has a better right over the property. Moreover, notwithstanding procedural lapses as to the appropriateness of the remedies prayed for in the petition filed before Us, this Court can brush aside the technicalities in the interest of justice. In some instances, this Court even suspended its own rules and excepted a case from their operation whenever the higher interests of justice so demanded.[63]

Moreover, although respondents did not directly raise the issue of validity of the deed of donation at the commencement of the case before the trial court, it was stipulated[64] by the parties during the pre-trial conference. In any event, this Court has authority to inquire into any question necessary in arriving at a just decision of a case before it.[65] Though not specifically questioned by the parties, additional issues may also be included, if deemed important for substantial justice to be rendered.[66]

Furthermore, this Court has held that although a factual issue is not squarely raised below, still in the interest of substantial justice, this Court is not prevented from considering a pivotal factual matter. The Supreme Court is clothed with ample authority to review palpable errors not assigned as such if it finds that their consideration is necessary in arriving at a just decision.[67]

A rudimentary doctrine on appealed cases is that this Court is clothed with ample authority to review matters, even if they are not assigned as errors on appeal, if it finds that their consideration is necessary at arriving at a just

decision of the case.[68] Also, an unassigned error closely related to an error properly assigned or upon which the determination of the question raised by the error properly assigned is dependent, will be considered by the appellate court notwithstanding the failure to assign it as an error.[69]

Donation Propter Nuptias of Real
Property Made in a Private Instrument
Before the New Civil Code Took Effect
on August 30, 1950 is Void

We now focus on the crux of the petition, which is the validity of the deed of donation. It is settled that only laws existing at the time of the execution of a contract are applicable to it and not the later statutes, unless the latter are specifically intended to have retroactive effect.[70] Accordingly, the Old Civil Code applies in this case as the donation propter nuptias was executed in 1919, while the New Civil Code took effect only on August 30, 1950.

Under the Old Civil Code, donations propter nuptias must be made in a public instrument in which the property donated must be specifically described.[71] Article 1328 of the Old Civil Code provides that gifts propter nuptias are governed by the rules established in Title 2 of Book 3 of the same Code. Article 633 of that title provides that the gift of real property, in order to be valid, must appear in a public document.[72] It is settled that a donation of real estate propter nuptias is void unless made by public instrument.[73]

In the instant case, the donation propter nuptias did not become valid. Neither did it create any right because it was not made in a public instrument.[74] Hence, it conveyed no title to the land in question to petitioners' predecessors.

Logically, then, the cancellation of OCT No. 352 and the issuance of a new TCT No. 44481 in favor of petitioners' predecessors have no legal basis. The title to the subject property should, therefore, be restored to its original owners under OCT No. 352.

Direct reconveyance to any of the parties is not possible as it has not yet been determined in a proper proceeding who among the heirs of spouses Simeon Doronio and Cornelia Gante is entitled to it. It is still unproven whether or not the parties are the only ones entitled to the properties of spouses Simeon Doronio and Cornelia Gante. As earlier intimated, there are still things to be done before the legal share of all the heirs can be properly adjudicated.[75]

Titled Property Cannot Be Acquired
By Another By Adverse Possession
or Extinctive Prescription

Likewise, the claim of respondents that they became owners of the property by acquisitive prescription has no merit. Truth to tell, respondents cannot successfully invoke the argument of extinctive prescription. They cannot be deemed the owners by acquisitive prescription of the portion of the property they have been possessing. The reason is that the property was covered by OCT No. 352. A title once registered under the torrens system cannot be defeated even by adverse, open and notorious possession; neither can it be defeated by prescription.[76] It is notice to the whole world and as such all persons are bound by it and no one can plead ignorance of the registration.[77]

The torrens system is intended to guarantee the integrity and conclusiveness of the certificate of registration, but it cannot be used for the perpetration of fraud against the real owner of the registered land.[78] The system merely confirms ownership and does not create it. Certainly, it cannot be used to divest the lawful owner of his title for the purpose of transferring it to another who has not acquired it by any of the modes allowed or recognized by

law. It cannot be used to protect a usurper from the true owner, nor can it be used as a shield for the commission of fraud; neither does it permit one to enrich himself at the expense of another.[79] Where such an illegal transfer is made, as in the case at bar, the law presumes that no registration has been made and so retains title in the real owner of the land.[80]

Although We confirm here the invalidity of the deed of donation and of its resulting TCT No. 44481, the controversy between the parties is yet to be fully settled. The issues as to who truly are the present owners of the property and what is the extent of their ownership remain unresolved. The same may be properly threshed out in the settlement of the estates of the registered owners of the property, namely: spouses Simeon Doronio and Cornelia Gante.

WHEREFORE, the appealed Decision is REVERSED AND SET ASIDE. A new one is entered:

- (1) Declaring the private deed of donation propter nuptias in favor of petitioners' predecessors NULL AND VOID; and
- (2) Ordering the Register of Deeds of Pangasinan to:
 - (a) CANCEL Transfer Certificate of Title No. 44481 in the names of Marcelino Doronio and Veronica Pico; and
 - (b) RESTORE Original Certificate of Title No. 352 in the names of its original owners, spouses Simeon Doronio and Cornelia Gante.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Nachura, JJ. , concur.

[1] Rollo, pp. 39-51. Dated January 26, 2005 in CA-G.R. CV No. 76200 entitled "Heirs of Fortunato Doronio v. Heirs of Marcelino Doronio, et al." Penned by Associate Justice Vicente S.E. Veloso, with Associate Justices Roberto A. Barrios and Amelita G. Tolentino, concurring.

[2] Records, pp. 344-356. Dated June 28, 2002 in Civil Case No. U-6498. Penned by Judge Joven F. Costales.

[3] Rollo, pp. 43-44, 48-49.

[4] Id. at 48-49; Exhibits "A" & "7."

[5] Id. at 48; Exhibit "D."

[6] Id. at 49; Exhibits "D-4" & "6."

[7] Id.; CA rollo, pp. 37-38.

[8] Id. at 44.

[9] Id. at 42-43; Exhibit "5."

[10] Id. at 45.

[11] Id.

[12] Id.

[13] Id.

[14] Id.

[15] Civil Case No. U-6498.

[16] Records, pp. 134-135.

[17] CA rollo, p. 43; id. at 354.

[18] Id. at 44-45; id at 354-356.

[19] Id. at 45; id. at 355-356.

[20] Id. at 46; id. at 356.

[21] Id.

[22] Id. at 46-47; CA rollo, pp. 19-20.

[23] Id. at 51.

[24] Id. at 48; CA rollo, p. 100.

[25] Id. at 48-49; id. at 100-101.

[26] Id.

[27] Id. at 49-50; CA rollo, pp. 101-102.

[28] Id. at 50; id. at 102.

[29] Id. at 13.

[30] Id. at 24.

[31] Francisco, V.J., The Revised Rules of Court in the Philippines, Vol. VII, Part II, 1991 ed., p. 389.

[32] Id.

[33] People v. Pansensoy, G.R. No. 140634, September 12, 2002, 388 SCRA 669, 689; People v. Barellano, G.R. No. 121204, December 2, 1999, 319 SCRA 567, 590.

[34] Interpacific Transit, Inc. v. Aviles, G.R. No. 86062, June 6, 1990, 186 SCRA 385, 390.

[35] Records, p. 188.

[36] Id.

[37] Id. at 189.

[38] Interpacific Transit, Inc. v. Aviles, supra.

[39] Quebral v. Court of Appeals, G.R. No. 101941, January 25, 1996, 252 SCRA 353, 365.

[40] Natcher v. Court of Appeals, G.R. No. 133000, October 2, 2001, 366 SCRA 385, 394.

[41] Id. at 392.

[42] Supra at 391-392.

[43] Natcher v. Court of Appeals, supra note 40, at 394; Pagkatipunan v. Intermediate Appellate Court, G.R. No.

70722, July 3, 1991, 198 SCRA 719, 729.

[44] *Id.*; *Mateo v. Lagua*, G.R. No. L-26270, October 30, 1969, 29 SCRA 864, 870.

[45] *Rollo*, p. 148.

[46] *Records*, pp. 134-135.

[47] *Rollo*, pp. 46-47.

[48] *Id.* at 144.

[49] Civil Code, Art. 1409.

[50] *Manotok Realty, Inc. v. Court of Appeals*, G.R. No. L-45038, April 30, 1987, 149 SCRA 372, 377, citing *Tolentino*, Civil Code of the Philippines, Vol. IV, 1973 ed., p. 604.

[51] *Arsenal v. Intermediate Appellate Court*, G.R. No. L-66696, July 14, 1986, 143 SCRA 40, 49, citing *Tolentino*, Civil Code of the Philippines, Vol. IV, 1973 ed., p. 604.

[52] *Records*, p. 14; Exhibit "C." Entitled "For the Registration of a Private Deed of Donation – The Heirs of Veronica Pico."

[53] *Rollo*, p. 143.

[54] *Id.* at 45; *CA rollo*, p. 97.

[55] *Realty Sales Enterprise, Inc. v. Intermediate Appellate Court*, G.R. No. L-67451, September 28, 1987, 154 SCRA 328, 348, citing *McDaniel v. McElvy*, 108 So. 820 (1926).

[56] *Foster-Gallego v. Galang*, G.R. No. 130228, July 27, 2004, 435 SCRA 275, 293; *id.*; *Sandejas v. Robles*, 81 Phil. 421, 424 (1948).

[57] RULES OF COURT, Rule 64.

[58] *Rollo*, p. 45; *records*, pp. 111-113.

[59] *Id.*; *CA rollo*, p. 97.

[60] *Domingo v. Scheer*, G.R. No. 154745, January 29, 2004, 421 SCRA 468, 483; *Matuguina Integrated Wood Products, Inc. v. Court of Appeals*, G.R. No. 98310, October 24, 1996, 263 SCRA 490, 505-506.

[61] *Alejandrino v. Court of Appeals*, G.R. No. 114151, September 17, 1998, 295 SCRA 536, 554; *Bernardo v. National Labor Relations Commission*, G.R. No. 105819, March 15, 1996, 255 SCRA 108, 118.

[62] *Rollo*, p. 148.

[63] *Government of the United States of America v. Purganan*, G.R. No. 148571, September 24, 2002, 389 SCRA 623, 651; *Fortich v. Corona*, G.R. No. 131457, April 24, 1998, 289 SCRA 624, 646; *Piczon v. Court of Appeals*, G.R. Nos. 76378-81, September 24, 1990, 190 SCRA 31, 38.

[64] *Records*, p. 134.

[65] *Serrano v. National Labor Relations Commission*, G.R. No. 117040, May 4, 2000, 331 SCRA 331, 338, citing *Korean Airlines Co., Ltd. v. Court of Appeals*, G.R. Nos. 114061 & 113842, August 3, 1994, 234 SCRA 717, 725; *Vda. de Javellana v. Court of Appeals*, G.R. No. L-60129, July 29, 1983, 123 SCRA 799, 805.

- [66] Velarde v. Social Justice Society, G.R. No. 159357, April 28, 2004, 428 SCRA 283, 312.
- [67] Abra Valley College, Inc. v. Aquino, G.R. No. L-39086, June 15, 1988, 162 SCRA 106, 116; Perez v. Court of Appeals, G.R. No. L-56101, February 20, 1984, 127 SCRA 636, 645.
- [68] Nordic Asia Limited v. Court of Appeals, G.R. No. 111159, June 10, 2003, 403 SCRA 390, 396.
- [69] Id.; Sesbreño v. Central Board of Assessment Appeals, G.R. No. 106588, March 24, 1997, 270 SCRA 360, 370; Roman Catholic Archbishop of Manila v. Court of Appeals, G.R. Nos. 77425 & 77450, June 19, 1991, 198 SCRA 300; Soco v. Militante, G.R. No. L-58961, June 28, 1983, 123 SCRA 160, 183; Ortigas, Jr. v. Lufthansa German Airlines, G.R. No. L-28773, June 30, 1975, 64 SCRA 610, 633.
- [70] Valencia v. Locquiao, G.R. No. 122134, October 3, 2003, 412 SCRA 600, 611; Ortigas & Co., Ltd. v. Court of Appeals, G.R. No. 126102, December 4, 2000, 346 SCRA 748, 755; Philippine Virginia Tobacco Administration v. Gonzales, G.R. No. L-34628, July 30, 1979, 92 SCRA 172, 185.
- [71] Valencia v. Locquiao, *supra* at 610.
- [72] Id.; Velasquez v. Biala, 18 Phil. 231, 234-235 (1911); Camagay v. Lagera, 7 Phil. 397 (1907).
- [73] Valencia v. Locquiao, *supra*; Solis v. Barroso, 53 Phil. 912, 914 (1928); Velasquez v. Biala, *supra*; Camagay v. Lagera, *supra* at 398.
- [74] Solis v. Barroso, *supra* note 73.
- [75] Pagkatipunan v. Intermediate Appellate Court, *supra* note 43, at 732.
- [76] Ong v. Court of Appeals, G.R. No. 142056, April 19, 2001, 356 SCRA 768, 771; Brusas v. Court of Appeals, G.R. No. 126875, August 26, 1999, 313 SCRA 176, 183; Rosales v. Court of Appeals, G.R. No. 137566, February 28, 2001, 353 SCRA 179.
- [77] Brusas v. Court of Appeals, *supra*; Jacob v. Court of Appeals, G.R. No. 92159, July 1, 1993, 224 SCRA 189, 193-194.
- [78] Francisco v. Court of Appeals, G.R. No. 130768, March 21, 2002, 379 SCRA 638, 646; Bayoca v. Nogales, G.R. No. 138210, September 12, 2000, 340 SCRA 154, 169.
- [79] Bayoca v. Nogales, *supra*.
- [80] Balangcad v. Justices of the Court of Appeals, G.R. No. 84888, February 12, 1992, 206 SCRA 169, 175.

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