THE VALIDITY OF TORRENS TITLES ISSUED OVER "UNCLASSIFIED LANDS"*

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In a number of decisions, the Supreme Court has established the broad and general rule that there can be no valid title over "forest lands" or "public forests"[1] and that lands classified as "forest lands" can be declassified as alienable and disposable lands for agricultural and other purposes only through a positive act of the Government.[2] There can, of course, be no dispute with the general rule adopted in the cited cases that, until "forest lands" are declared as alienable and disposable by the Government, they cannot be susceptible of private appropriation or ownership and registered in the name of any private individual or entity in any land registration proceeding. The aforesaid rule, however, must be carefully understood and applied in the proper context. Thus, the rule does not apply where the land involved is not "forest land." Neither does the rule apply where "private rights" have previously intervened prior to the governmental reservation or setting-aside of lands of the public domain as "forest lands" or "forest reserves."

While it is undoubtedly the Government's prerogative, through its executive department, as practiced through the years, to set aside lands forming part of the public domain as "forest zones" or "forest reserves," the exercise of this prerogative must not violate "private rights" that have previously been acquired over the properties so reserved or set aside as such.

The relevance of the foregoing rules can perhaps be better appreciated if one were to realize that many parts of the country, albeit not "forest lands" in the contemplation of law and jurisprudence, are nevertheless "unclassified lands," that is, they have not been declared

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*"Unclassified lands" refer to lands that have not been previously expressly classified or reserved as "forest lands" or "forest reserves." Although the title speaks only of torrens titles issued over unclassified lands, the Article also includes a discussion of lands covered by torrens titles but subsequently (*i.e.*, subsequent to the registration proceedings) reserved as "forest zones" or "forest reserves."

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[1]Both terms are used interchangeably in this article.

[2]*E.g.*, Director of Lands v. CA, 133 SCRA 701 (1984); Director of Lands v. CA, 129 SCRA 689 (1984); Heirs of Amunategui v. Director of Lands, 126 SCRA 69 (1983); Republic v. Animas, 56 SCRA 499 (1974).

as alienable and disposable by the Government. The whole area of Quezon City, for instance, based upon the records of the National Mapping and Resource Authority,[3] remains an "unclassified" land of the public domain.[4] There is as of this writing a proposal to "declassify" or declare the whole Quezon City area and part of Marikina as alienable and disposable under Proposed Land Classification Map No. 3087 in relation to Proposed Bureau of Forestry Development Administrative Order No. 4-1739.

One wonders how many titles have been issued by the Land Registration Authority,[5] pursuant to court decrees issued in land registration proceedings, over properties situated within Quezon City. Easily in the hundreds, thousands perhaps. In fact, even the Supreme Court itself has taken judicial notice of the fact "that no property around the City of Manila or in Quezon City is as yet not covered by Torrens Title."[6]

If a person owns a piece of land situated within Quezon City covered by the Torrens System, will the fact that Quezon City is still "unclassified land" and has not been previously declared as alienable and disposable give any cause for concern in that the adverse inference may be drawn that lands within Quezon City are not subject to private ownership? Does the mere fact that lands located within Quezon City have not been previously declared as alienable and disposable adversely affect torrens titles issued over properties located in Quezon City? Does such fact by itself necessarily bring about the inference that lands situated in Quezon City are "forest lands" and therefore not susceptible of private ownership?

It is the objective of this article to explain the rulings of the Supreme Court on the topic under discussion and in the process affirm the validity of torrens titles issued over lands that are still, pursuant to government records (including the so-called land classification maps of

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[3]NAMREA under the Department of Environment and Natural Resources (DENR).

[4]It might also interest the reader to note that pursuant to Forestry Administrative Circular No. 4-1141 of 3 January 1968, approved in March 1972, in relation to Land Classification Map No. 2628 of March 1972 of the NAMREA, lands included within the Municipalities of Taguig, Pateros, Las Piñas, Muntinlupa and Parañaque (except some portions thereof whose metes and bounds cannot be ascertained because the records pertaining thereto were burned during World War II) were declared "alienable and disposable" only at the time of the approval of such administrative circular. The said circular, however, expressly recognizes "private rights" that have in the meantime intervened.

[5]Previously the General Land Registration Office and later the National Land Titles and Deeds Registration Administration.

[6]Republic v. Aricheta, 2 SCRA 469, 472 (1961).

the NAMREA), deemed as "unclassified lands" (or not yet declared as alienable and disposable), and those torrens titles issued over lands which were reserved or set aside as "forest reserves" or "forest zones" subsequent to the issuance of torrens titles in land registration proceedings. Pertinent qualifications to the principle of inviolability of torrens titles will also be discussed in this article.

In the leading case of *Ramos v. Director of Lands*,[7] the Supreme Court through Mr. Justice Malcolm held that courts were empowered under the provisions of the Act of Congress of July 1, 1902[8] to determine the nature or classification of lands sought to be registered in land registration proceedings. There, the application for land registration was premised upon subsection 6 of section 54 of Act No. 926,[9] as amended by Act No. 1908, which provided that:

> 6. All persons who by themselves or their predecessors in interest have been in the open, continuous, exclusive, and notorious possession and occupation of agricultural public lands, as defined by said Act of Congress of July first, nineteen hundred and two, under a bona fide claim of ownership except as against the Government, for a period of ten years next preceding the twenty-sixth day of July, nineteen hundred and four . . . shall be conclusively presumed to have performed all the conditions essential to the government grant and to have received the same, and shall be entitled to a certificate of title to such land under the provisions of this chapter.

The Solicitor-General opposed the application for registration principally on the ground that the land pertained to the "zonas forestales" and therefore not susceptible of registration.[10]

In describing the exercise of its power to determine the nature or classification of lands sought to be registered in land registration proceedings, the Supreme Court held that "the presumption should be, in lieu of contrary proof, that land is agricultural in nature,"[11] and that the rationale for this legal presumption is that "it is for the public good of the Philippine Islands to have the large public domain come under private ownership."[12] According to the Court:

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[7]39 Phil. 175 (1918).
[8]Otherwise known as the Philippine Bill of 1902.
[9]Otherwise known as the Public Land Law.
[10]Ramos, 39 Phil. at 177.
[11]*Id.* at 186.
[12]*Id.*

> [w]hen the claim of the citizen and the claim of the Government as to a particular piece of property collide, if the Government desires to demonstrate that the land is in reality a forest, the *Director of Forestry should submit to the court convincing proof that the land is not more valuable for agricultural than for forest purposes.* Great consideration . . . will be [ ] paid by the courts to the opinion of the technical expert who speaks with authority on forestry matters. *But a mere formal opposition on the part of the Attorney-General for the Director of Forestry, unsupported by satisfactory evidence will not stop the courts from giving title to the claimant.*[13]

The Government, therefore, through the Director of Forestry and/or the Attorney-General, had the burden to show that the land sought to be registered was "not more valuable for agricultural than for forest purposes," the *standard* established under the Organic Act for land classification.[14] If the Government failed in discharging this burden, the courts were empowered to decree the land as "agricultural" and susceptible of registration in the name of the applicant. Thus, lands of the public domain could be the subject of land registration proceedings and such proceedings could not be opposed on the mere ground that the property was within the forest zone or forest land (or still "unclassified") unless it was successfully shown by satisfactory evidence that the land was "not more valuable for agricultural than for forest purposes" by the Government. In other words, the *burden of proof* was on the Government to establish that the land was "more valuable for forestry than agricultural purposes" (and therefore "forest land" in the contemplation of law) so that the land would not be decreed in favor of the applicant.[15]

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[13]*Id.* at 186-87 (emphasis supplied).

[14]The Court has held that the Solicitor-General is the Counsel of the Government in land registration proceedings. Republic v. Abaya, 182 SCRA 524, 528 (1990).

[15]Ramos, 39 Phil. at 180-181. The Court affirmed, in Jocson v. Director of Forestry, 39 Phil. 560, 565 (1919), that "the Act of Congress of July 1st, 1902, classifies the public lands in the Philippine Islands as timber, mineral or agricultural lands, and all public lands that are *not* timber or mineral lands are *necessarily* agricultural public lands, whether they are used as nipa swamps, *manglares*, fisheries or ordinary farm lands (emphasis by court; also emphasis supplied)." It is interesting to note that in *Jocson*, the Attorney-General admitted the proposition that whether a particular land belongs to one class or another is a question of fact. Ankron v. Government, 40 Phil. 10, 15 (1919).

The classification of lands of the public domain into these three grand divisions, to wit, agricultural, mineral and timber (or forest lands) was maintained in the 1935 Constitution and was superseded only in the 1973 Constitution which expanded the classification of public lands to include industrial or commercial, residential, resettlement, and grazing lands and even permitted the legislature to provide for other categories. The classification of public lands embodied in the 1973 Constitution has been reproduced with substantial modifications in the 1987 Constitution. Director of Forestry v. Villareal, 170 SCRA 598 (1989).

The ruling in *Ramos v. Director of Lands* was followed in *Ankron v. Government,*[16] also a case involving registration of land based upon paragraph 6, section 54 of Act No. 926, wherein the Supreme Court held that under the Philippine Bill of 1902 and the laws then in force, lands of the public domain were classified into three categories, namely, "agricultural", "mineral" and "forestry" land, and that "whether the particular land in question belongs to one class or another *is a question of fact.*"[17]

In *Ankron,* the Government opposed registration on the ground that the land was a "mangrove swamp" and therefore not susceptible of private ownership. The Government premised its objection on section 3 of Act No. 1148[18] in relation to section 1820 of Act No. 2711,[19] grounds which were apparently also relied upon by the Government in resisting the application for registration in *Ramos.*

Section 3 of Act No. 1148 provided that "public forests shall include all unreserved lands *covered with trees* of whatever age," while section 1820 of Act No. 2711 provided that "public forests include, except as otherwise specially indicated, all unreserved public land, including nipa and mangrove swamps, and all forest reserves of whatever character." Notwithstanding the foregoing provisions of law, the Court, following *Ramos,* held that:

> [t]he mere fact that a tract of land has trees upon it or has mineral within it is not of itself sufficient to declare that one is forestry land and the other, mineral land. There must be some proof of the extent and present or future value of the forestry and of the minerals. While . . . many definitions have been given for "agriculture [sic]," "forestry," and "mineral" lands, and that in each case it *is a question of fact,* we think it is safe to say that in order to be forestry or mineral land the *proof must show that it is more valuable for the forestry or the mineral* which it contains than it is for agricultural purposes. *It is not sufficient to show that there exists [sic] some trees upon the land or that it bears some mineral.* . . . considering the fact that it is a matter of public knowledge that a majority of the lands in the Philippine Islands are agricultural lands, [ ] the courts have a right to presume, in the absence of evidence to the contrary, that in each case the lands are agricultural lands until the contrary is shown. Whatever [*sic*] the land involved in a particular land registration case is forestry or mineral land must, therefore, be a matter of proof. . . . The fact that the land is *manglar* [mangrove swamp] is not

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[16]40 Phil. 10 (1919),

[17]Ankron, 40 Phil. at 15 (emphasis supplied).

[18]The Forest Act of 7 May 1904.

[19]The Second Administrative Code.

> sufficient for the courts to decide whether it is agricultural, forestry or mineral land.[20]

The Court further held that although the Government was empowered by virtue of Act No. 1148 to reserve such portions of public lands for forestry purposes, this power was without prejudice to "private interests [that] have intervened *before* such reservation [was] made."[21] Moreover, the Court recognized that although the Bureau of Forestry could define what lands are forestry, such definition by the Government *was not conclusive* on the issue of whether the land was forestry or not in the land registration proceedings. Consistent with its holding that whether land was forestry or not was a "question of fact," the Supreme Court held that such definition only served to aid the Court in resolving the issue. Thus the Court held that "[i]f the Bureau of Forestry should accurately and definitely define what lands are forestry, occupants *in the future* would be greatly assisted in their proof and the courts would be greatly aided in determining the question."[22] This meant that the subsequent reservation of property as "forest land" under Act No. 1148 cannot affect any "private interest"[23] that may have been acquired in

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[20]Ankron, 40 Phil. at 15-16 (citation omitted) (emphasis by court; also emphasis supplied).

[21]*Id.* at 16 (emphasis supplied).

[22]*Id.* at 15 (emphasis supplied).

[23]*See also* Government v. Abella, 49 Phil. 491, 494 (1926), wherein the Court, in affirming and citing *Ankron*, held that "[w]hether the particular land is agricultural, forestry, or mineral *is a question to be settled in each particular case*, unless the Bureau of Forestry has, under the authority conferred upon it, *prior to the intervention of private interest*, set aside for forestry or mineral purposes the particular land in question." (Emphasis supplied)

The term "private interest" may refer, for instance, to rights over the land that may have been acquired by the applicant on account of open, continuous, exclusive and notorious possession of the land for the duration specified by law "sufficient to apprise the community and the world that the land was for his enjoyment" (Ramos, 39 Phil. at 180) and to warrant recognition of title in favor of the applicant under the provisions of law governing judicial confirmation of imperfect title (*see* Act No. 926 (otherwise known as the Public Land Law), sec. 54, par. 6, as amended by Act No. 1980).

The protection of "private interest" in property was continuously recognized in subsequent legislation covering "public agricultural lands." Thus, under Act No. 2874, for instance, it is provided that while the Governor-General upon recommendation of the Secretary of Agriculture may declare from time to time what lands are open to disposition or concession, such power cannot prejudice "private interests" that have attached to such lands *prior* to the declaration. *See* Act 2874, sec. 8, in relation to sec. 44, *et seq.* of the same Act. And consistent with *Ramos*, *Ankron* and *Abella*, it may be inferred that the failure of the Government to provide a classification for the land (that the land is therefore "unclassified") does not give rise to the conclusion that the land is forestry or mineral. Such land may be susceptible of acquisition if, upon the "question of fact," the Government fails to discharge its burden of establishing that the land sought to be registered was "not more valuable for agricultural than for forest purposes."

such land prior to the governmental "reservation." Thus, lands of the public domain *subsequently* classified as "forest lands" could be the subject of valid land registration proceedings if it is determined that the applicant has established a "private interest" in such property and that the property is "agricultural" in character -- *i.e.*, that the Government has not established by satisfactory proof that it is more valuable for the forestry or mineral which it contains.[24] Therefore, it is only where no prior "private interest" can be claimed over public land that the classification by the Bureau of Foresty that the land is forestry or mineral land is conclusive upon the court.

The force of the foregoing precedents has been recognized in subsequent decisions of the Supreme Court. Thus, in *Director of Forestry v. Muñoz*,[25] the Supreme Court in citing *Ramos* and *Ankron* impliedly recognized that while the general rule is that land which is "public forest" cannot be appropriated and that the Government may decide for itself what portions of the public domain shall be set aside and reserved as forest land, this governmental prerogative is without prejudice to "private interests" that have intervened *prior* to such governmental reservation or declaration.

Time has not eroded the precedential value of the *Ramos* and *Ankron* decisions and their progeny.

Republic v. Court of Appeals[26] involved a proceeding began in 1955 for the confirmation of an imperfect title over land where the only objection raised by the Government, through the Director of Forestry, was that a 22-hectare portion of the land involved was subsequently classified as a "timberland" as certified by the Director of Lands on 22 December 1924 under Land Classification Project No. 3. The Supreme Court, however, found that the applicant and his predecessors-in-interest possessed and cultivated the land *as early as 1909*. In affirming the order of the trial court (which was also affirmed by the Court of Appeals) confirming the applicant's title to the land sought to be registered, the Supreme Court held that:

In Roales v. Director of Lands, 51 Phil. 302 (1927), for instance, the Supreme Court allowed judicial confirmation of the applicant's title and recognized the applicant's right to "nearly all of Bonga Island, situated about 25 kilometers from the coast of Cotabato," on the ground that he had established partly actual and partly constructive possession of the land as required by law (presumably Act No. 2874), having "entered into possession and commenced to cultivate this island . . . between 1893 and 1895." *Id.* at 303.

[24]Ankron, 40 Phil. at 15-16.

[25]23 SCRA 1183 (1968).

[26]168 SCRA 77 (1988).

> [w]hile the Government has the right to classify portions of public land, the primary right of a private individual who possessed and cultivated the land in good faith much prior to such classification must be recognized and should not be prejudiced by after-events which could not have been anticipated. Thus, We have held that the Government, in the first instance may, by reservation, decide for itself what portions of public land shall be considered forestry land, *unless* private interests have intervened before such reservation is made.[27]

As previously held in *Ankron,* confirmation of an applicant's imperfect title to land is premised upon two requirements: first, that the land is agricultural public land, and second, that the applicant or his predecessors-in-interest have been in open, continuous, exclusive and notorious possession of such land.[28] In affirming *Ankron,* the Supreme Court in the recent case of *Republic v. Court of Appeals*[29] held that "as to whether the particular land in question is forestry or any other class of land is a question of fact to be settled by proof in each particular case." As to the proper determination of this "question of fact," the Supreme Court likewise reiterated its holding in *Ramos* that:

> [i]f the Government desires to demonstrate that the land is in reality a forest, the Director of Forestry should submit to the court convincing proof that the land is not more valuable for agricultural than for forest purposes. Great consideration, it may be stated, should, and undoubtedly will be, paid by the courts to the opinion of the technical expert who speaks with authority on foresty matters. But a mere formal opposition on the part of the Attorney-General for the Director of Foresty, unsupported by satisfactory evidence, will not stop the courts from giving title to the claimant.[30]

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[27]168 SCRA at 83-84. *See* Republic v. De Porkan, 151 SCRA 88 (1987). *See also* Bureau of Forestry v. C.A., 153 SCRA 351 (1987).

[28]40 SCRA at 13 (citing Act No. 926, par. 6, sec. 54).

[29]168 SCRA 77 (1988). The twin rulings of the Court in this case, that the question as to whether a piece of land is "forest land" or "agricultural land" susceptible of registration is a question of fact, and that the subsequent classification of land as "forest land" or "forest reserve" cannot prejudice "private rights" acquired prior to such classification, were again affirmed by the Court in its decisions in Director of Lands v. Court of Appeals, 181 SCRA 450 (1990) and Republic v. Court of Appeals, 182 SCRA 290 (1990). In the latter case, the Court affirmed the trial court's order (as affirmed by the Court of Appeals) for the issuance of a decree of registration in favor of the applicant over the Government's remonstration that the property was part of the forest reserve and cannot therefore be titled in the name of the applicant.

The foregoing decisions are not in any way affected by the ruling of the Court in Director of Foresty v. Villareal, 170 SCRA 598 (1989), which has special application and relevance only in cases of lands specifically classified as *manglares.* Although the land involved in *Ramos* was classified as *manglares,* the doctrine embodied in *Ramos* is not in any way affected by *Villareal* as to lands not classified as *manglares.*

[30]168 SCRA at 82-83 (citing Ramos v. Director of Lands, 39 Phil. 175, 181-87 (1918)).

From the foregoing decisions, the following general principles can be established:

1. Whether a public land is "forest land" or "agricultural land" is a "question of fact" which a court in land registration proceedings has the power to pass upon.

2. Absent any express classification of the land as "forest land," the burden is upon the Government to establish "by convincing proof" that the land is "forestry land" (*i.e.*, that it is more valuable for forestry and mineral purposes), and if the Government fails to discharge this burden of proof, the land sought to be registered will be presumed to be "agricultural" in character and could be decreed in the land registration proceedings in favor of the applicant.

3. The Government could, by express reservation or classification,[31] decide for itself what lands were to be set aside as "forest" or "mineral" land, but such express reservation may not prejudice "private rights" *previously acquired* over the subsequently reserved or classified property. This means that despite the subsequent reservation or classification, courts could still determine that the property was more valuable for agricultural than for forestry or mineral purposes in the land registration proceedings instituted over such property. In other words, if "private interests" have attached to such lands, the subsequent reservation or classification of such lands by the Government for forestry or mineral purposes would not prevent the courts from holding that the lands are "agricultural" in character and may be decreed in favor of the prior right holder.[32]

4. The absence of any prior governmental reservation of the land as "forest" or "mineral" land or any prior declaration that the land is "alienable or disposable" (*i.e.*, the land is "unclassified") will not bar the vesting or recognition of "private interests" in such lands and the registration of such lands in favor of the applicant in proper cases.

Under the foregoing precedents, therefore, it is certainly ***not*** the rule that "private interests" over lands cannot be acquired unless the

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[31] *E.g.*, under Act No. 1148 or under Act No. 2874.

[32] It is expressly provided in Act No. 2874 (the first Public Land Act of 1919), for instance, that "[o]nly those lands shall be declared open to disposition or concession which have been officially delimited and classified and, when practicable, surveyed, and which have not been . . . . *nor in any manner become private property, nor those on which a private right authorized and recognized by this Act* or any valid law may be claimed . . . ." Thus, Act 2874 likewise recognized that "private rights or interests" may be acquired over lands in conformity with the then existing rules. The same Act also outlined the rules for free patents and for judicial confirmation of imperfect title.

Government, by positive act, declares such lands alienable or disposable. In fact, the foregoing cases stand as authority for the proposition stated above that "private interests" can be acquired over lands despite the subsequent reservation thereof by the Government as "forest land" (or timber or mineral land) if at the time such "private interests" were acquired such lands were not "forest lands" (or timber or mineral lands) in the contemplation of law and jurisprudence.

It is also clear from the foregoing that the general rule that no "private right" or title can be acquired over public lands unless and until such lands are declared, by positive act of the Government, as alienable and disposable, applies only as an *a posteriori* proposition or principle, *i.e.*, after it is in fact established that the applicant's rights or interests in such lands were acquired by him or his predecessors-in-interest either: (i) only *after* the land was expressly reserved or classified as "forest land" or "forest reserve," or (ii) in the absence of any particular declaration, that at the time the "rights" were acquired, the land was in fact "forest land" and such fact was established by the Government by "convincing proof" in opposing the land registration proceedings involving the land.

Thus, in the case of *Heirs of Amunategui v. Director of Forestry*,[33] it was clearly established that, at the time the applicant's predecessor-in-interest started possession in 1925 of the property sought to be registered, "the land was a classified forest land so much so that timber licenses had to be issued to certain licensees before 1926 and after that" and that even the predecessor-in-interest of the applicant who commenced the possession of the property "himself took the trouble to ask for a license to cut timber within the area."[34] In *Republic v. Animas*,[35] it was established that the land which was sought to be registered in the name of the applicant was reclassified as a "public forest" more than eleven (11) years *before* the applicant filed his application for a free patent over the property, and hence his title based upon the free patent issued to him over the "forest land" was rightfully nullified.[36] *Director of Lands v. Court of Appeals*[37] was clearly decided upon the finding that the applicants (who applied for judicial confirmation of title to 231 hectares of land) were never in continuous, uninterrupted, open, exclusive and notorious possession of the property sought to be registered, and the evidence presented in fact established that the applicants were nothing more than land-grabbers who had

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[33]126 SCRA 69 (1983).
[34]126 SCRA at 72 (citing the findings of fact of the Court of Appeals).
[35]56 SCRA 499 (1984).
[36]56 SCRA at 502-03.
[37]133 SCRA 701 (1984).

forcibly taken the land from the bona fide possessors and cultivators thereof. *Director of Lands v. Reyes*[38] involved an application filed in 1964 for registration of a vast tract of land of about 16,800 hectares situated in Laur, Nueva Ecija. The evidence proved that the land formed part of a military reservation established under Presidential Decree No. 237; in addition, the applicant completely failed to establish that he had acquired a "private right over the property" which Presidential Decree No. 237, in creating the military reservation, expressly recognized.[39] In *Director of Forestry v. Muñoz*,[40] the Supreme Court held, among others, that private respondent had not been able to establish a valid title to the property in that he was only able to show a Spanish title[41] which was not issued by the proper authority and was therefore deemed as null and void.[42] In *Tattoc v. Intermediate Appellate Court*,[43] the Supreme Court in affirming the trial court's nullification of a homestead patent (and the title based thereon) expressly found, among others, that "[t]he long period of time from 1949 to 1969 during which the land was under pasture lease permits granted to petitioner all the more lends credence to the fact that the said land was within the Forest Zone as only lands of the category of public forest land

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[38]68 SCRA 177 (1975).

[39]This decision impliedly recognizes the rule discussed above that the subsequent reservation of public land as "forest land" or under such other classifications is without prejudice to "private rights" that have impressed upon the property.

[40]23 SCRA 1183 (1968).

[41]*Titulo de Propiedad.*

[42]It should be noted that *Muñoz* expressly recognized the continuing validity and effectivity of the rulings of the Court in *Ramos* and *Ankron*. 23 SCRA at 1199, note 14.

The other factor that militated against private respondent's case in *Muñoz* was the fact that "a portion" of the land he was claiming title to was "directly affected by Proclamation No. 71 dated March 10, 1927 of the then Governor-General Leonard Wood . . . which reserved for watershed purposes an area of 62,309.0952 hectares of land located in Montalban . . . subject to 'private rights if any there be'." In government proclamations reserving portions of the public domain as "forest reserves" or for other purposes, the qualification that the reservation is always subject to 'private rights' is uniformly prescribed. This is an express recognition on the part of the Government of the doctrines established by the Court in *Ramos* and *Ankron* and their progeny.

The Court in *Muñoz* also discussed section 1829 of the Revised Administrative Code in relation to section 7 of Forestry Administrative Order No. 12-1 of 1 July 1941, as amended by Forestry Administrative Order No. 12-2, which took effect on 1 January 1963. These administrative issuances were considered by the Court to have the force and effect of law. These issuances, in relation to section 1829 of the Revised Administrative Code impliedly, if not expressly, recognized that "Judicial Title, such as Torrens Title obtained under the Land Registration Act (Act 496, as amended) or under the Cadastral Act (Act No. 2259, as amended)" may be issued over lands "containing timber, firewood and other minor forest products." 23 SCRA at 1196.

[43]180 SCRA 383 (1989).

can be the subject of such permits."[44] And far from disregarding the rules herein discussed, the Supreme Court, speaking through Mr. Justice Regalado, specifically reaffirmed the rule that:

> [t]he question as to whether a particular portion of land is forestal or any other class of land is a question of fact to be settled by the proof in each particular case. Thus, the mere classification or certification made by the Bureau of Foresty that a part of the public domain is timberland is not controlling in all cases.[45]

In fact, in the early case of *Li Seng Giap v. Director of Lands*,[46] often cited as the leading authority for the proposition that forest lands are not susceptible of private appropriation, it was clearly established by the records that the property subject matter of the appeal before the court was "virgin forest covered with trees and forest growth. Some of the trees upon it [were] from 200 to 300 years old, and it has never been reduced to cultivation, *being more valuable for forest than agricultural purposes.*"[47] In *Adorable v. Director of Lands*,[48] often cited for the proposition that possession of lands forming part of the public forests no matter how long cannot convert them into private property, the case was remanded to the trial court for its failure to consider the argument of the Director of Forestry that "a portion of the land in question either is needed for river bank protection or forms part of permanent timberland."[49] *Adorable* relies upon the early case of *Vaño v. Government*,[50] but in *Vaño* the Court merely excluded from the land applied for registration "approximately 685 hectares of forest land and four logging trails in the nature of highway."[51] It should be noted, however, that in *Vaño* the Court affirmed the registration in favor of the applicant of the land consisting of about 1060 hectares which was under the applicant's cultivation and certain other areas used by him for pasturage.[52]

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[44]180 SCRA at 391.

[45]180 SCRA at 389.

[46]55 Phil. 693 (1931).

[47]55 Phil. at 695.

[48]107 Phil. 401 (1960).

[49]107 Phil. at 404.

[50]41 Phil. 161 (1920).

[51]41 Phil. at 162.

[52]Similar cases may be cited. In Director of Lands v. Court of Appeals, 129 SCRA 689, 692 (1984), for instance, in addition to *Adorable* (which as noted above was based upon *Vaño*) and *Muñoz* (which recognizes the authority of *Ramos*, *Ankron* and *Abella*), cited as authority for the ruling that "unclassified land" cannot be subject to private rights until after the same is classified or declared as alienable and disposable, was Yngson v. Secretary, 123 SCRA 441 (1983). But *Yngson* itself is premised upon *Ramos*.

Thus, it is clearly erroneous to state that a torrens titles issued over "unclassified lands" or over lands classified as "forest," "timber" or "mineral" lands subsequent to the land registration proceedings are automatically null and void. The factual milieu under which such titles were obtained should be examined. It is the factual setting that will be determinative of the question of the validity of the torrens titles. If in the land registration proceedings it is established that the property was indeed "agricultural" (which will be presumed if the Government is not able to establish by "convincing proof" that the land is "not more valuable for forestry or mineral purposes"), or that the "agricultural land," even if subsequently reserved as "forestry" or "mineral" land under Act. No. 1148 (or other legislation empowering the Government to classify lands of the public domain), was previously impressed with a "private interest," then the title decreed in such land registration proceedings is inviolable and cannot be questioned later on, either by the Government or any private party claiming an adverse title subsequently obtained over the property.

The rules propounded in this Article and summarized above are not new. They are embodied in the countless Supreme Court decisions discussed above that have their beginnings in *Ramos* and *Ankron*, and even in earlier cases.[53] It is essential that said rules must not be forgotten especially in today's times when *bogus* or fictitious titles abound. Many cases have been filed before our courts involving conflicting or adverse titles to the same land. These cases usually involve, on the one hand, titles, whether original certificates of title or, as is more often the case, transfer certificates of title, that can be traced back to original certificates of title obtained in land registration proceedings instituted in the early part of this century, and, upon the other hand, *bogus* or fictitious titles obtained many decades later. Situations oftentimes arise where *administrative free patents*[54] are issued over properties previously covered by torrens titles obtained in land registration proceedings.

It would not be remote for the holders of *bogus* or fictitious titles to claim that the earlier title, which should necessarily prevail, is null and void simply because the land covered by the earlier title was, at the time the title was issued, still "unclassified" land or not yet declared as alienable and disposable. Such argument is at best misleading. It erroneously presumes that the holder of the earlier title has the burden

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Other cases can be cited similar to Director v. Court of Appeals and Yngson v. Secretary, *supra*, which can all be traced back to *Ramos*, *Ankron* and *Abella*.

[53]*E.g.*, Mapa v. Insular Government, 10 Phil. 175 (1908).

[54]These are issued by the Regional Directors of the Bureau of Lands without the benefit of any judicial proceedings.

of establishing by "convincing proof" that the land at the time the earlier title was issued was not "forest land" (or that it was "agricultural" land). But, as shown by the foregoing discussion, it is in fact the holder of the subsequent title who must establish that at the time the earlier title was issued the land was in fact "not more valuable for agricultural than for forest purposes." If the holder of the later title fails in discharging this burden of proof, the general rule should perforce be applied that as between two titles over the same property the earlier title is superior.