LAND REGISTRATION

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A survey of 1959 decisions on land Registration cases obviously shows the consistency with which our Supreme Court has interpreted our laws to maintain stability of ownership of lands. The decisions on these cases are but a reiteration of the previous rulings it has made involving age-old doctrines affecting the acquisition and transmissions of rights over lands. The authors deemed it best to present a substantial digest of each case decided by our Supreme Court to give those who may benefit from this humble work a clear appreciation of each particular case and the principles involved therein.

I. REGISTRATION UNDER THE TORRENS SYSTEM

A. EFFECTS OF REGISTRATION

1. Registration is the operative act

Under the Torrens System registration is the operative act that gives validity to the transfer or creates a lien upon the land. This doctrine was recently applied by our Supreme Court, reiterating its previous rulings on the matter,[2] in the case of Castillo v. Sian.[3] The land in question was sold to Shober Brothers as a result of which Transfer Certificate of Title (TCT) No. 1555 was issued in its favor. Subsequently, said land was sold at public auction to Delfin Sian for failure of the administrator of Shober Bros. to pay taxes. Property was not redeemed and the city treasurer of Baguio executed a final deed of sale in favor of Sian and such sale was annotated on the Transfer Certificate of Title (TCT) No. 1555. The Register of Deeds required Shober Bros. to surrender the Original Cetificate of Title, but apparently unheeded. Sian then brought an action for cancellation of TCT No. 1555 and the issuance of a new one in his name. Granted. Sian sold the land to Francisco Rodrigo who in turn sold the same to Jose Delgado. Both sales were duly registered. Five years after, Jose Castillo filed a petition alleging that when Shober died he left a will with his widow as the sole heir and praying that TCTs consequently issued be cancelled and a new one be issued in his favor as administrator of the deceased widow. Castillo claimed that the will is the

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1 Sections 50 and 51, Land Registration Act.
2 Rulings of our Supreme Court applying the principle are to be found in the cases discussed somewhere in this work. See also the cases of Betia, et al. v. Gabito, et al., G.R. No. L-7677, Feb. 18, 1956; Defensor, et al. v. Brillo, et al. G. R. No. L-7255, Feb. 21, 1956
3 G.R. No. L-11291, April 20, 1959

operative act that alone transferred title to the land invoking Sec. 50 of Act 496.[4] The court brushed off this contention saying under the Torrens System registration is the operative act that gives validity to the transfer or creates a lien upon the land.[5]

2. Issuance of certificate places the land under the operation of the Torrens System and relieves the Land from all claims except those noted thereon.

The certificate serves as evidence of an indefeasible title to the property in favor of the person whose name appears therein.[6]

In the case of **Tiburcio et al., v. PHHC**[7] et al., the court held.

". . . It appears, however, that the land in question has been placed under the operation of the Torrens System since 1914 when it has been originally registered in the name of defendants predecessors-in-interest.

The court was in effect saying that after the issuance of the original certificate of title in 1914 the land in question was place under the operation of the Torrens System[8] and persons dealing with registered land are not required to go behind or beyond the register to determine the condition of the property. One is only charged with notice of what are noted on the face of the registry or certificate of Title. To require him to do more is to defeat one of the primary objects of the Torrens System.[9]

B. PRESCRIPTION OF ACTION

1. Under Sec. 112 of the Land Registration Act no limitation or period is fixed for filing a petition to annotate a deed of sale at the back of certificate of title

This in effect comprises the substance of the ruling promulgated by our Supreme Court in the case of **Mendoza v. Abrena et al.**[10] The facts of the case are as follows. Taciana Samante, deceased, registered owner of lot No. 2178 mortgaged the same to the Agricultural Industrial Bank [11] to secure a loan. Subsequently, Samante and her sons sold the land to Mendoza, herein plaintiff. The latter alleged that she paid the bank the loan and that the same bank delivered to her the owner's duplicate copy of the certificate of title, that same was lost, hence prayed for the issuance of a TCT in her name. The defendants filed an opposition to the petition contending that the sale of the lot to Mendoza was secured through fraud, intimidation and duress and that petitioner's right has already prescribed as not asserted within 10 years. RFC joined in opposition contending that aside from the fact that petitioner's action is barred by the Statute of Limitation, the sale was likewise of no force and effect because said sale was made without the consent of the creditor. (Agricultural Industrial Bank in this case). The question now presented for decision is whether the action has already prescribed. Held:

"The question of prescription is untenable. Under Section 112 of the Land Registration Act there is no limitation or period fixed

4 See Sec. 50 of ct 496
5 Secs. 50 and 51, Land Registration Act
6 Ventura, Land Titles and Deeds, p. 176 (1955)
7 Oct. 31, 1959, G.R. No. L-13479
8 The Tiburcio case is discussed in details somewhere in this article
9 Castillo v. Sian, G. R. No. L-11292, Apr. 20, 1959 William Anderson v. Garcia, 64 Phil. 506
10 G.R. No. L-10519, Apr. 30, 1959
11 The functions of the Agricultural Industrial Bank (AIB) were undertaken by the Rehabilitation Finance Corporation (RFC). The latter corporation is now replaced by the Development Bank of the Philippines (DBP)

for filing a petition to annotate a deed of sale at the back of the certificate of title."

2. **A decree of registration can only be set aside within one year after entry**[12]

Upon the expiration of the one year period within which to review the decree of registration, the said decree as well as the title issued in pursuance thereof, becomes incontrovertible. But, any person aggrieved by such decree in any case may pursue his remedy by action for damages against the applicant or any other person for fraud in procuring the decree.[13] No rule is better settled in this jurisdiction than the one which prohibits the changing, altering or modification of a decree in a land registration proceeding under the Torrens System after lapse of one year[14] from entry thereof.

In the recent case of **Mauricio v. Villanueva et al.**[15] it appears that prior to January 5, 1944 Candida Agustin, had mortgaged to one Patricio Iñigo and his wife, Maura Villanueva a parcel of land situated in San Isidro, Isabela and covered by OCT No. 3472. While the aforementioned mortgage was in force, Candida Agustin sold the land to Mauricio. The latter, however failed to register the sale and the land remained in the possession of Candida Agustin who on July 21, 1946 sold the same property to the aformentioned mortgage, who registered the same and a new TCT was issued in their favor. On August 13, 1955 or more than nine years later Mauricio instituted the present action against the defendants on the ground of fraud, alleging that at the time defendants brought the land, they were cognizant of the previous sale. Is the action barred by the Statute of Limitation? The Supreme Court resolved the question in the affirmative applying Section 43 par. 3 of Act No. 190. It held that the action should have been brought within four years from the discovery of the fraud which took place on July 1, 1946 so that plaintiff's cause of action prescribed on July 1, 1950. The court further said:

> ". . . the registration of the deed of sale by the Iñigos in the office of the Register of Deeds on July 1, 1946 was a notice to the whole world including plaintiff." (16)

To emphasize its point the Supreme Court cited the case of **Sevilla v. Angeles.**[17] That case involved a parcel of land registered by the defendant and correspondingly, certificate of title No. 577 was issued in 1936. Plaintiff now seeks to annul the certificate issued on the ground of fraud after he had constructive notice of the fraud for more than 14 years. Petition was dismissed.

In the **Tiburcio et al., v. PHHC et al.,** case[18] it appears that the land in question had been placed under the operation of the Torrens System since

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12 Sec. 38 of Act 496; Apurado v. Apurado, 26 Phil. 581; Salmon v. Bacundo, 46 O.G. 13th Supp. 1640; Rivera v. Moran, 48 Phil. 836.
In the case of **Cabanos v. Register of Deeds, 40 Phil.** 520, our Supreme Court held: " If after the title to property is decreed an action maybe instituted beyond the one year period to set aside the decrees, the object of the Torrens System which is to guarantee the indefeasibility of the title would be defeated."

13 Sec. 38, Act 496

14 Director of lands v. Gutierez David, 50 Phil. 797

15 G.R. No. L-11072, Sept. 24, 1959

16 Sec. 51 Act 496. The Sureme Court is in effect restating the nature of proceedings in land registration as it previously ruled ni the **Tuason case.** The Court in the latter case declared that land reistration proceeding is a proceeding in rem and by the inscription in the notice "To whom it may concern . " all the world are made parties... The prior case of Grey Alba v. de la Cruz, 17 Phil. 49 held likewise.

17 51 Off. Gaz., 5590-5591

18 G.R. No. L-13479, Oct. 31, 1959

1914 when it was registered for the first time in the name of defendants' predecessors-in-interest. The defense of fraud was overruled on the ground that the action has already prescribed. According to the court, a decree of registration can only be set aside within one year after entry on the ground of fraud.

3. Rule that Title becomes indefeasible after lapse of one year from issuance is immaterial where relation of trust exists between parties

As opposed to the doctrine that title becomes indefeasible after lapse of one year from issuance thereof is the rule that when a relation of trust between the parties exists the former rule will not apply. This was shown in the case of **Mabana, et al. v. Mendoza, et al.,**[20] where the court found the relation of trust existing between defendant and his co-heirs, plaintiffs herein, which gives to latter the right to recover their share in the property unimpaired by defense of prescription.[21] Plaintiffs brought action for partition of a parcel of land held by heir or co-owner, defendant herein. Trial court sustained defendant's motion to dismiss on the ground that the land in question has already been registered in name of defendant's father under Section 122 of Act 496 and title issued became indefeasible after lapse of one year from issuance. The Supreme Court, however, found that the registration of the land in the name of defendant's father was pursuant to an agreement entered into between him and his co-heirs, plaintiffs herein; that he was merely to act as a trustee of his co-heirs, and a partition would later be effected among them. This partition, the defendant's father failed to do and property was appropriated by his heir, defendant herein. The Court held that while a certificate of title issued by the Register of Deed covering land granted by the Bureau of Lands by virtue of a homestead patent under Section 122 of Act 496 becomes conclusive and indefeasible after lapse of one year, the rule becomes immaterial in an action where the relation of trust between the parties exists.

The defense that a relation of trust exists between the parties was made in the case of **Padilla v. Ongsiapco.**[22] The plaintiffs in that case claimed that Lot 1709-A allegedly belonging to them by virtue of purchase in 1929, was inadvertently included in defendant's title when defendants became registered owners of said lot. Lower court dismissed the complaint on the ground of prescription since present action was brought in 1956 or about 27 years after alleged purchase or 17 years from 1939 when plaintiffs claim to have known that Lot 1709 was registered land. Plaintiffs claim that prescription does not apply to a subsisting and continuing trust. The Supreme Court ruled that the claim of plaintiffs that purchase of land by defendants was impressed with a trust could not be accepted because plaintiffs' predecessor-in-interest lost her title to land by reason of auction sale. If the purchaser in public auction could not be considered as holding land in trust, neither could his successors-in-interest, including defendants.

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19 Sec. 38, Act No. 496; Apurado v. Apurado, **supra**; Salmon v. Bacuado, **supra**; Rivera v. Moran, **supra.**

20 Manalang v. Canlas, G.R. No. L-6307, Apr. 20 1954; Diaz v. Gorricho G.R. No. L-11229, March 29, 1958

22 G.R. No. L-11317, Feb. 28, 1959

23 Anacleta Mauricio v. Maria Villanueva, et al **supra.**

4. Even when the allegation is one for the recovery of real property with damages, the period is 4 years

In one case[23] where the petitioner's action was dismissed on the ground that it has already prescribed not having been brought within four years after the discovery of the fraud, it was next urged by the petitioner that the period of prescription applicable to the case is 10 years not four years for his action is one for the recovery of real property with damages not for relief on the ground of fraud. In disposing of the contention the Court held:

> ". . . Moreover, plaintiff cannot possibly recover the land without a previous declaration of nullity of the sale by reason of the bad faith allegedly attending said transaction and without an order of cancellation of the TCT issued in their name. In other words the recovery of said property would merely be a consequence of plaintiffs' ability to secure relief against the aforementioned fraud, so that the period of prescription applicable to the right to such relief should be and is controlling."

Justice Concepcion, who wrote the decision for the Court supported his contentions by citing a previous case which he said is controlling in the case in question. In that case the Court said that the action for the annulment of a contract or deed on the ground of fraud should be brought within four years after discovery of the fraud. It may be that the recovery of title to and possession of the lot was the ultimate objective of the plaintiff, but to attain that goal, they must need first travel over the road of relief on the ground of fraud, otherwise even if the present action were to be regarded as a direct action to recover title and possession it would, nevertheless, be futile and could not prosper for the reason that the defendants could always defeat it by merely presenting the deed of sale, which is good and valid to legalize and justify the transfer of the land to the defendants until annulled by the court. And of course it can not be annulled unless the action had been filed within four years after the discovery of the fraud.[25]

C. EFFECT OF TRANSFER TO INNOCENT PURCHASER

1. Decree of registration can not be opposed after the property has been transferred to an innocent purchaser for value[26]

The term innocent purchaser for value has been interpreted by our Supreme Court to include an innocent lessee, mortgagee or other encumbrances for value.[27]

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24 Done v. Clara, G.R. No. L-4472, May 8, 1952

25 Same ruling can be found in the cases of Sampillo, et al. v. C.A. et al., G.R. No. L-10474, Feb. 28, 1958 and Llavera v. Bapos, et al, G.R. No. L-12588, Aug. 28, 1959

26 The term "innocent purchaser for value" refers to a person who after acquiring a right or interest in a real property from another, who according to the registry, has a right thereto, registers the same in the registry.

The cases of Merchant v. **Lafuente, 5 Phil 638 and Fernandez v. Mercader, 43 Phil. 581** ruled emphatically that in order that such a person maybe accorded the protection of law it is essential that he has no notice, either actual or constructive, of any adverse claim to the property which is transferred or encumbered to him, or of any flaw in the title of the grantor according to the registrty, appear to be the owner of said property. Otherwise, according to the case of **Winkleman v. Veluz, 43 Phil. 604**, a person who acquires a right or interest in a real property knowing that another person has previously acquired the same interest in a real property, but has failed to record it in his name, can claim no valid right to the property on the plea that he has registered his interest therein. . . His knowledge of the prior unreistered interest serves the purpose of registration and can not claim that he is not duly informed thereof.

The same doctrine was laid down in the case of Sampillo v. Court of Appeals, et al. supra.

27 See 78 A.L.R. 496.

So that in the case of **Castillo v. Sian**[28] the Court ruled that the TCT issued to Delfin Sian, Francisco Rodrigo, and Jose Delgado successively as a result of the sale was held valid and could not be assailed by the plaintiff on the ground that the purchasers were not shown to have knowledge of defects in the title of the land in question.

In another case of **Agustin Paraiso, et al. v. Jesus Camon**[29] an action was instituted by the plaintiffs for the recovery of one-half portion of land. It appears in this case that the lot in question was owned by the San Sebastian Subdivision. This lot was bought by Agustin Paraiso, Sr., the father of the plaintiffs on installments and when he died, his widow, Anita vda. de Paraiso continued paying the installments until the price was paid in full on February 3, 1951 as a result of which a deed of definite sale was executed in her favor and TCT No. 8848 was issued in her name. Subsequently, the widow sold this lot to Jesus Camon herein defendant on the condition that she will repurchase the same within one year. Having failed to exercise her right of repurchase, Camon consolidated his ownership over the property after which she executed in his favor an absolute deed of sale. It is now contended by the plaintiff that the lot in question is conjugal in nature because it was their father who initiated the payments until his death when the widow undertook to continue the payment out of the proceeds of their father's backpay as an officer of the Philippine Army. The defendant set up the defense that he acquired said lot without knowledge of any defect in the title and that he acquired title thereto unaffected by any liens or encumbrance not noted thereon. The trial court upon motion of the defendant dismissed the action. On appeal the Supreme Court affirmed the lower court's decision, saying, thus:

> "The claim of the plaintiff is not entirely devoid of merit . . . but we can not also consider the action taken by the trial court to be erroneous bearing in mind that the lot in question is covered by a Torrens Title and the same appears issued exclusively in the name of their mother Anita vda. de Paraiso. It must be noted that the defense is that defendant brought the land from said widow on the belief that she was the exclusive owner of the same considering that its title appears issued in her name and there is nothing therein to indicate that it suffers from any lien or encumbrance of any kind . . . and the trial court upheld the objection having in mind the law and jurisprudence governing transfer of registered lands."[30]

In a later case of **Marcelino Tiburcio et al. v. PHHC et al.**[31] our Supreme Court dismissed plaintiffs' contention that PHHC and the University of the Philippines acquired their respective titles with full notice of the actual possession and claim of ownership, saying that the contention overlooks the

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28 G.R. No. L-11296, Apr. 21, 1959. This is the same case discussed elsewhere in this article.

29 G.R. No. L-13919, Sept. 18, 1959

30 The "law and jurisprudence governing the transfer of registered lands" referred to by the Supreme Court was discussed clearer in the case of **William Anderson v. Garcia** 64 Phil. 506. It held:
"We hold that under the Torrens system, registration is the operative act that gives validity to the transfer or creates a lien upon the land. (Secs. 50 and 51, Land Registration Act) A person dealing with registered land is not required to go behind the register to determine the condition of the property. He is only with notice of the burdens on the property which are noted on the certificate of title. To require him to do more is to defeat one of the primary objects of the Torrens System. A **bona fide** purchaser for value of such property at an auction sale acquires good title as against a prior transferee of the same property if such transfer was unrecorded at the time of the auction sale." See also the case of Castillo v. Sian, **supra.**

31 G.R. No. L-13479, Oct. 31, 1959.

fact that the land in question is covered by a Torrens Title. It is not shown that defendants knew of any defect when they acquired the lots in dispute . . To require them to do more is to defeat one of the primary objects of the Torrens System. . [32] The Court in this case cited the case of **Paraiso v. Camon**, reiterating its previous stand on the question.

2. Bad faith is not presumed in a case for annullment on the ground of fraud

In a September 1959 case[34] our Supreme Court held:

> Here there is no clear evidence showing that appellee acted with knowledge of the origin of property or that it is conjugal in nature other than a mere conjecturue. Bad faith can not be presumed, but must be established by clear evidence more so when the property subject of the sale which is sought to be annulled is covered by a Torrens Title. In the circumstance, we are persuaded to affirm the decision of the trial court."

3. Lease contract does not constitute a title or deed or conveyance within meaning of Sec. 122 of Act 496

The dispute in the case of **Dagdag v. Nepomuceno et al.**[35] was over a portion of lot covered by a Sales Patent issued to predecessor-in-interest of plaintiff and also by a contract of lease executed by the Bureau of Lands in favor of predecessor-in-interest of defendant. Both parties now claim possession and ownership of the lot in question. The trial court declared plaintiff as owner thereof on the theory that the registration of the Sales Patent with the Office of the Register of Deeds and issuance of title, free from any lien or incumbrances, brought the lot under the operation of the land Registration Act. Defendants contended that their registered contract of lease constituted a title and in case of overlapping of the two titles the older one in point of registration should prevail. The Court held that the phrase contained in Section 122 of Act No. 496, wherein land is "alienated, granted or conveyed" refers to documents transferring ownership, not to documents of lease, transferring mere possession. Furthermore, when the lease was renewed in 1949, the lot in question was no longer public land subject to the disposition of the Director of Lands, because it had already been granted to predecessor-in-interest of plaintiff.

The said lease not having been annotated on the certificate of title and, in absence of proof that plaintiff acted with knowledge thereof, the lease can not prejudice one who is presumed to be an innocent purchaser for value. The fact that the lease in favor of defendant had been registered at an earlier date than registration of Sales Patent can not bind plaintiff for the lot in question, being a registered land, he need not go farther than the title. This decision conforms with previous rulings of the Supreme Court[36] on indefeasibility of public land patents when registered in the corresponding Register of Deeds.

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32 William Anderson v. Garcia, **supra.**; Castillo v. Sian, **supra.**; Paraiso v. Camon, G.R. No. L-13919, Sept. 18, 1959.
33 G.R. No. L-13919, Sept. 18, 1959.
34 Augustin Paraiso et al, v. Jesus Camon, **supra.**
35 G.R. No. L-12691, Feb. 27, 1959.
36 Pamintuan v. San Agustin, 43 Phil. 538; El Hogar Filipino v. Olviga, 60 Phil. 17.

4. In double sale under Act 496, he who recorded the sale has a better right than one who did not.

This was recently applied in the case of **Buason and Reyes v. Panuyas.**[37] Spouses Buenaventura Dayao and Eugenia Vega acquired by homestead patent a parcel of land containing an area of 14 hectares covered by OCT No. 1187. On October 29, 1930, they executed a power of attorney authorizing one Eustaquio Bayuga to engage the services of a lawyer to prosecute their case against one Gambito for the annullment of a contract of sale of the above parcel of land and to sell same if awarded in their favor. Dayao died. Vega and her children conveyed on March 21, 1939 12 hectares of the lot. Appellants took possession of the land through tenants. Only July 18, 1944, Bayuga sold 8 hectares of same parcel of land to Panuyas. Both claim ownership. Appellee alleged that they are purchaser in good faith and for value and that appellants' cause of action is barred by the Statute of Limitation. The issue presented before the Court was the question as to who of the two has a better right.

The Court in ventilating the issue of the case said that the power of attorney by Dayao authorizing Bayuga to sell the land was annoated and inscribed on the back of Original Certificate of Title (OCT) No. 1187 and also sale to appellee was so annotated. Appellee had no knowledge of previous sale and he relied on the face of the certificate of title of the registered owners and the authority they conferred on the agent. Appellants did not register the sale in their favor. As this is a case of double sale of registered land under Act 496, he who recorded the sale in the Register of Deeds has a better right than he who did not.

In the case of **Florentina Techico v. Amalia Serrano** the Court unfortunately failed to make a definite statement of the rights of the parties who acquired the same property by virtue of a double sale made — the first being unregistered and the second registered.

On the other hand it said that Techico lost her right because of the redemption made by Serrano within the legal period for redemption.

C. JURISDICTION

Before Sections 34 and 37 of Act No. 496 were amended by Act No. 3621, the power of the court was limited to the confirmation of title already created and vested in the applicant. If the applicant could not prove a registerable title, the court will dismiss his application.[39]

Under the law as amended, however, the court has the power to determine conflicting interests or contentious issues.[40]

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37 G.R. No. L-11415, May 25, 1959.

38 G.R. No. L-12693, May 29, 1959.

39 See City of Manila v. Lack, 19 Phil. 324.

40 Ventura, **Land Titles and Deeds**, p. 143 (1955)
Sec. 37 of Act 496 as amended by Act No. 362, provides that the court should determine the conflicting interests of the applicant and the adverse claimant and dismiss the application and opposition if neither one of them succeeds in showing that he has proper title for registration or should enter judgment in favor of the person entitled thereto in view of the evidence adduced in the hearing. If the adverse party is entitled to a portion of the land, the court has the power to order the opponent to pay the applicant such part of the latter's expenses (for filing of the application and the publication of the notice) as may be necessary in proportion to the area awarded to him, unless the applicant acted in bad faith in filing his application in which case he is not entitled to any refund. If the entire lot is awarded to the opponent, then the refund of expenses to the applicant shall include the actual cost of making the plan of the property.

1. Final decree bars all persons from contesting the existence of the constituent elements of reserva

In the case of **Maria Cano v. Director of Lands et al.**[41] the Court of First Instance of Sorsogon decreed registration of certain lots in the name of Maria Cano, but subject to right of reservation in favor of Guerrero. Four years later, Guerrero filed a motion alleging death of **reservista** and prayed that OCT of Cano be cancelled and a new one be issued in his name. This was opposed by the heirs of Cano who contended that the application and operation of the **reserva troncal** should be ventilated in an ordinary contentious proceeding and that Registration court did not have jurisdiction to grant motion. The Court in disposing of the contention of the heirs said that the stand taken by them is untenable, because the requisites of **reserva troncal** have already been declared to exist by decree of registration wherein the rights of Guerrero were expressly recognized. Decree having become final, all persons are barred thereby from contesting the existence of the constituent elements of reserva. But, where the registration decree merely specifies the reservable character of the property without determining the identity of the **reservatario** or where **reservatarios** dispute the property among themselves, further proceedings would be unavoidable.

2. All petitions and motions filed under Act 496 after original registration shall be filed and entitled in original case in which decree of registration was entered

Under Section 78 of Act 496, upon the expiration of the time for redemption of land sold by virtue of a writ of execution, a person claiming under the execution may petition the court for entry of a new certificate to him, and under Section 112 of same Act, this petition should be filed in the original registration case. Any other rule "would eventually lead to confusion and render it difficult to trace the origin of the entries in the registry."[42]

In the case of **Alto Surety and Insurance Co. v. Limcaco, et al.,**[43] plaintiff who was highest bidder in a public auction of a parcel of land, sought to have a new certificate of title issued in his name and asked for possession of property. Defendants opposed petition on ground that the court has no jurisdiction to entertain petition for the same comes under the court which took cognizance of original case relative to the registration of property. Trial Court issued order directing Register of Deeds of Manila to issue a new one in name of plaintiff in lieu of existing one. This order was set aside on appeal, with respect to the issuance of new certificate, because it was in excess of trial court's jurisdiction, but affirmed with respect to placing plaintiff in possession of property, pursuant to Section 31, Rule 39 of Rules of Court.

In one case[44] certain lots were mortgaged by one to another. On the TCTs of said lots were annotated the adverse claim of a bank due to alleged fraudulent transfer. Said lots were later foreclosed and sold at public auction. The administrator of the mortgagee was declared highest bidder. He now contended that the adverse claim should not be recorded into the TCT to be issued in his name, saying that Section 112 of Act 496 was applicable. The

41 G.R. No. L-1070, Jan. 16, 1959.
42 Cavan v. Weslizinuss, 48 Phil. 662.
43 G.R. No. L-11596, March 16, 1959.
44 Bank of P.I. v. Noblejas, G.R. No. L-121128, March 31, 1959.

Register of Deeds elevated case by way of consulta under Section 4, RA 1151. Deciding the case, the court declared that the matter does not come under Section 112 of Act 496 which authorizes a person in interest to ask the court for any erasure, alteration or amendment of a certificate of title upon the ground that registered interests have terminated or ceased,[45] but is already within the competence of Commissioner of Land to resolve, pursuant to Section 4 of RA 1151.[46]

3. Reconstitution of lost or destroyed certificate of title under RA 26 is limited to reconstitution of certificate as it stood at time of loss or destruction

Under Republic Act No. 26,[47] a petition for reconstitution of a lost or destroyed original certificate of title for registered land may be filed with the Court of First Instance "by the registered owner, his assigns, or any persons having an interest in the property." Plaintiff in the case of **Bachoco v. Esperancilla** filed petition for reconstitution of certificate of title issued to Juana Montinola from whom he bought property. Petitioner wants a reconstitution so that he may have deed of sale in his favor registered and secure for himself a certificate of title. All of these would involve a change in the original certificate of title not consented to by the other parties whose interest will be affected thereby. This change can not be authorized under summary proceedings for reconstitution of the certificate as it stood as the time of its loss or destruction and should not be stretched to include changes which alter or affect the title of the registered owner. Such changes should be decided in an ordinary action. Not even the proceedings authorized in Section 112 of Act 496 could be availed of by plaintiff because such proceedings apply only "if there is no adverse claim or serious objection on the part of any party in interest."

4. Registration in name of a co-owner does not preclude court from compelling such registered co-owner to reconvey interest to others lawfully entitled thereto

The question presented in the case of **Aragon v. Aragon et al.**[50] was whether or not the court could still nullify or annul, in whole or in part, decision in a civil case ordering partition of certain parcels of land. The defendants contend that the Torrens Certificates of Titles covering these lots are conclusive of the ownership of registered owners and to declare the plaintiffs as co-owners of said lots would be to amend or alter the decision of the cadastral court. The rule is well-settled that the registration of a parcel of land in the name of one of the co-owners does not preclude the court in the exercise of its equity jurisdiction, from compelling registered owner to reconvey the interest therein to the one lawfully entitled thereto, since the registered owners, defendants herein, were holding the lots in trust for the plaintiffs co-owners.

5. CFI has no Jurisdiction to decree again the registration of land already decreed in an earlier case

This well-settled doctrine was illustrated in the case of **Rojas et al. v. City of Tagaytay.**[51] It appears in that case that the defendant applied with the CFI for the registration in its name six parcels of land among which was lot

45 Tangueran et al. v. Republic, Dec. 29, 1953.
46 See Republic Act 1151 for clearer understanding of the case.
47 This Act entitled "An Act Providing A Special Procedure For The Reconstitution Of Torrens Certificates Of Titles Lost or Destroyed", was approved September 25, 1946.
48 G.R. No. L-11785, March 31, 1959.
49 Enriquez, et al. v. Atienza, et al., G.R. No. L-9986, March 29, 1957.
50 G.R. No. L-11472, March 30, 1959.
51 G.R. No. L-13333, Nov. 24, 1959.

No. 1 which is contested. As nobody appeared, the court decreed registration and issued title thereto. Subsequently, plaintiff filed a suit to set aside decision because ... said lot was already decreed in a previous land registration case and covered by OCT No. 29. Petition denied.

On appeal the Court sustained the contention of Rojas saying that it is already a settled rule that CFI has no jurisdiction to decree again the registration of land already decreed in an earlier land registration case and a second registration for the same land is void.[52] Elaborating on the principle the Court said, to wit:

> "This is so because the title to the land is already res judicata binding the whole world, the proceedings being in rem. Furthermore, registration of the property in the name of the first registered owner is a standing notice to the whole word hence City of Tagaytay is chargeable with notice."

6. Attorney's lien for services rendered can not be annotated on back of Certificate of title

In the case of **De Caiña, et al. v. Victoriano, et al.**[53] petitioners sought to annul order of respondent judge, directing them to have the lien of their attorney annotated on the back of a certificate of title. The lien was for services rendered in an ejectment case. The Court distinguished between the two kinds of attorney's liens namely, the retaining lien and the charging lien. In the instant case the lien is a charging one, and the attorney had already caused a statement of his claim to be entered in the record of the ejectment case so that it may be considered in the execution of the judgment that may be rendered in the case. He can not go any further, as he led the trial court to do, to have his lien annotated on the back of petitioners' certificate of title. The lien of the attorney is not of a nature which attaches to the property in litigation but is at most a personal claim enforceable by a writ of execution. The trial court has no jurisdiction to determine such right in favor of the attorney. Consequently, the order issued by the respondent judge was made in excess of his authority.

7. Section 72 of the Land Registration Act has not been repealed by R.A. 1151 [54]

In the case of **Register of Deeds of Manila v. Magdalena Estate, Inc.,**[55] a notice lis pendens was filed with the office of the Register of Deeds of Manila. The Register of Deeds pursuant to Section 72 of the Land Registration Act wrote Magdalena Estate, Inc. requiring the latter to submit within five days the owner's duplicate of TCT for the purpose of annotating thereon said notice of lis pendens. Instead, respondent presented an opposition. In view of this refusal, appellee petitioned the court to compel same to surrender the duplicate in question for annotation of said lis pendens. This move was sustained by the trial court. Respondent appealed contending among other things that CFI has no more jurisdiction over the subject matter by virtue of R.A. 1151, and that the case falls under the subject matter of consulta and therefore, should have been referred to the Commissioner of Land Registration.

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52 Pamintuan v. San Agustin, supra.; Timbol v. Diaz, 44 Phil. 557; Reyes v. Borbon, 40 Phil. 791; Singian v. MRR, 60 Phil. 192 Addision v. Pagsaitos Estate Improvement Co., 60 Phil. 673. Sideco v. Aznar, G.R. No. L-4831, Apr. 24, 1953.

53 G.R. No. L-12905, Feb. 26, 1959

54 See. Republic Act 1151 and Sec. 72 of the Land Registration Act.

55 G.R. No. L-9102, May 22, 1959.

The Court on the question as to whether the CFI has or has no jurisdiction said, thus:

> "There is no question that the powers and functions of the CFI as to **consulta** under Section 200 of the Administrative Code have been transferred to the Land Registration Commission by virtue of RA 1151 which took effect in 1954. However, a closer analysis of Section 4 of RA 1151 reveals that the essential element which must exist in order that the matter may be brought to the Commission by way of **consulta** is the **doubt** on the part of the Register of Deeds as to the proper step to be taken by him . . . In the present case the Register of Deeds did not entertain any doubt; he duly recorded the **lis pendens** . . Section 72 of the Land Registration Act has not been repealed by R.A. No. 1151, hence the CFI could compel respondent to surrender its duplicate in question to the Register of Deeds for the purpose of annotation of **lis pendens.**"

8. CFI has jurisdiction, acting as Land Registration Court to direct issuance of a new certificate

The case of **Concepcion vda. de Santiago, et al. v. Maria Garcia,**[56] illustrates this doctrine. An action was brought for the cancellation of annotations on the certificate of title and issuance of a new title in their favor the old one being destroyed during the war. This action of the plaintiffs was opposed by Garcia, herein defendant on the ground that CFI has no jurisdiction to act on the matter.

The Court in deciding the case said that under Sections 109 and 112 of Act 496, the CFI acting as Land Registration Court may, upon petition of the registered owner or other persons in the interest, after notice and hearing and satisfactory proof, direct the issuance of a new certificate of title in lieu of lost one and cancellation of encumbrances on a certificate of title which has terminated or ceased. Jurisdiction being conferred by law the action of of appellant against appellee to secure a declaration that she is entitled as owner to one-half of the parcel of land, cannot divest the land registration court of its jurisdiction to hear and determine the appellee's petition for order directing the Register of Deeds to issue another duplicate for the owner of TCT pursuant to Sections 109 and 112 of Act 496.

II. REGISTRATION UNDER ADMINISTRATIVE PROCEEDING

A. HOMESTEAD

1. Section 20 of Commonwealth Act No. 141 not applicable after property is acquired and title issued

It appears in the case of **Jacinto v. Jacinto, et al.**[57] that plaintiff and defendants executed a document whereby it was stipulated that the latter, being an applicant for a homestead, undertook to convey portions of said homestead to those who have jointly occupied, cleared and cultivated the land with him, the partition to be made after five years from the issuance of the patent and certificate of title. The defendant failed to make good his obligation, hence this action for specific performance. The defense was that under Section 20

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56 G.R. No. L-1126, Apr. 29 1959.
57 G.R. No. L-12313 and 12314, July 31, 1959.
58 Citing the case of Gauian v. Sabagun, G.R. No. L-4646, May 29, 1953.
59 G.R. No. L-12485, July 31, 1959.
60 See also the case of Manalo v. Lukban, 48 Phil. 973; El Hogar Filipino v. Olviga, 60 Phil. 17; Suwaal v. CFI of Cotabato, G.R. No. L-8278, Apr. 30, 1955; Ramaso v. Obligado, 70 Phil. 86.

of Commonwealth Act 141, transfer of Homestead rights is allowable only prior to the making of the final proof of the application, but not after. The court in disposing of the contention, held:

> "Section 20 of Commonwealth Act 141 is not applicable. The subject of the contract is no longer the homestead rights of the parties, but the property itself after it has been acquired and title thereto issued."[58]

2. *Indefeasibility of homestead patent after being duly registered.*

The case of **Republic of the Philippines v. Heirs of Ciriaco Carle**[59] is a case in point reiterating the above doctrine — that once a patent is issued to the patentee and after the latter registered the land is automatically brought under the operation of Section 38 of Act 496 and subjects the same to all the safeguards therein provided.[60]

In the above case, Ciriaco Carle, was an applicant for a homestead which was subsequently approved on August 30, 1950. On April 26, 1944 the patent was issued to the applicant's heirs who recorded the same on the same date. OCT was issued in their favor on May 11, 1946. On August 31, 1953, Director Lands declared patent inoperative due to erroneous inclusions of a part covered by another application. Subsequently, he filed petition before the court to declare said patent void. The heirs contended that action has already elapsed as eight years after its issuance have passed. Trial court upheld the contention. On appeal, the decision was affirmed by the Supreme Court for the reasons already stated.[61]

3. Power of the Director of Lands to dispose public lands.

In the case cited above,[62] the Director of Lands contended that since he is the official vested with the power to dispose public lands, it necessarily follows that the right to review patents issued pertains to him.[63] Consequently, he has the power to bring an action for the declaration of the nullity of the patent so issued. The Court held that the view is correct so long as the land remains a part of the public domain and still continues to be under his executive and exclusive control, but when patent issued in favor of the applicant is registered and the corresponding certificate of title is issued, said land ceases to be part of public domain and becomes private property over which the Director has neither control nor jurisdiction.[64]

The same principle was applied by our Supreme Court in the later case of **Cabrera, et al. v. Sinoy, et al.**[64a] In that case, spouses Cabrera were issued a sales patent covering seven parcels of land. Said spouses subsequently registered the sales patent with the Register of Deeds after which an OCT was issued in their favor. Spouses brought action for writ of possession against Sinoy, et al. who occupied said lot on the strength of another OCT

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61 In the case of Lucas v. Durian, G.R. No. L-7886, Sept. 23 1957 the Supreme Court declared thus:

> " . . a certificate of tittle issued pursuant to a homestead patent partakes of the nature of a certificate issued as a consequence of a judicial proceeding, as long as the land disposed of is really a part of the disposable land of the public domain and becomes indefeasible and incontrovertible upon expiration of one year from date of the issuance thereof."

62 Republic of the Philippines v. Heirs of Ciriaco Carle, supra.

63 See Sec. 91, Commonwealth Act 141.

64 Suwail v. Judge of CFI of Cotabato, supra.

64a G.R. No. L-12648, Nov. 23, 1959.

issued in their favor. The latter OCT was, however, issued subsequent to the one issued to spouses Cabrera.

The Court in passing upon the question as to who had the better right declared, thus:

> "Homestead patent as well as OCT was issued three years after Cabreras acquired and registered their sales patent covering said parcel of land. Hence, her homesead patent void because it covers land already segregated from public domain over which Land Department has no longer any control."

The Court further, stated that the rule is that once a patent is confirmed by regisration and replaced by a Torrens Title, the land covered thereby is removed from the domain and sphere of Public Land Act and of the department charged with the administration and disposition of same.

This case also reiterated the well-defined doctrine that the original certificate of title is not a conclusive evidence of ownership and therefore can be cancelled when the title so acquired is void, because it is issued for a land already covered by a prior Torrens Title.[65]

The Court in one case declares that lands in excess of what has been granted in the application due to the fault of the prvaite surveyor who made the survey are still part of public domain, therefore disposable in favor of those who may apply for them.[66]

It appears in that case that the plaintiff filed an application for sales patent which was granted with an area of around 377.5 hectares. A private surveyor surveyed the land and made his report containing an area of 439.8925 hectares or a difference of 62.3925 hectares. It was shown that the difference was brought about by the surveyor's carelessness in not following the true boundaries. Applicants of said parcels of land which were erroneously embraced in the report of the surveyor and which was approved by the Director of Lands brought an action to have their applications pertaining to such excess given due course. Secretary of Agriculture and Natural Resources reversed decision of Director of Lands. Plaintiff brought certiorari proceedings for grave abuse of discretion. CFI reversed decision of Secretary, hence the appeal.

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65 Legarda and Prieto v. Saleeby, 31 Phil. 598.
Prof. Ventura of the U.P. College of Law, listed some other causes where an Original Certitficatte of Title can be cancelled. The following are sufficient causes for cancellation:
A. When the title is void.
B. When the certificate is replaced by one issued under a cadestral proceeding.
C. When the condition for its issuance has been violated by the registered owner. (Gov't. of P.I. v. Warner, 49 Phil. 944)
Under A he enumerated the following as some of the grounds for cancellation:
1. Because it is procured through fraud. (Bruce v. Apurado, 26 Phil. 581; De la Cruz v. Fabie 35 Phil. 144; Montelibano v. De la Cruz, V Lawyers' Journal 87.)
2. Because it covers a land reserved for military naval or civil public purposes. (Gov't. of U.S. v. Jordge, 49 Phil. 495.)
3. Because it covers a land which has not been brought under registration proceeding (Director of Lands v. Abache, et al. I Off. Gaz. (1942) No. 10 p. 674; Gov't of P.I. v. Tombis Tinio, 50 Phil. 708.)
4. Because it contains the description of land not applied for and not described in the notice of hearing published in the Off. Gaz. (Gov't Of P.I. v. Menzi and Co., et al. 66 Phil. 296.)
5. Because it covers propertty of public ownership (Ledesma v. Municipality of Iloilo, 49 Phil. 769; Gov't of P. I. v. Tombis Tinio, supra.)
6. Because it covers lands non-transferable to aliens. (Krivenko v. Reg. of Deeds, G.R. No. L-650; Trinidad Gonzaga de Cabauatan et al. v. Uy Hoo, et al., G.R. No. L-2207, Jan. 23, 1951.)

66 Medina Brothers and Co. v. The Secretary of the Dept. of Agriculture and Natural Resources, G.R. No. L-12793, Dec. 1959.

The Supreme Court held that it is very clear that what was bought by petitioner was only the land with an area of 377.5 hectares and the excess, which the applicants are trying to get now, is still public land and therefore, disposable to proper parties.

4. Sale need not be registered or affect the whole land to constitute a violation of Section 118 of CA 141.

It appears in the case of **Republic of the Philippines V. Isabelo Garcia, et al.**[67] that Garcia was purchaser of homestead rights to a parcel of land containing an area of 23.21 hectares. An OCT was issued in his name immediately thereafter. Three years and three months after its issuance, he sold a part of the land to the other defendants. The sale was without knowledge of the Department of Agriculture and Natural Resources for approval. Neither was it registered. The government filed a petition for reversion to the state of the homestead land in question for violation of Section 118 of CA 141.

Defendants contended that under Section 50 Act 496, the operative act to convey and affect lands registered thereunder is the act of registration, that in as much as the deed of sale was never registered there was actually no conveyance made of said portions. Consequently, according to them, there was no infringement of Section 118 of Commonwealth Act No. 141. And besides the alleged conveyance affected only a portion of the homestead lands not the whole.

The Court held that the contentions are untenable. It is enough that the homestead be encumbered or alienated within the prohibitory period. It is not necessary that the encumbrance or alienation be registered in the Office of the Registered of Deeds. As to the second contention, the Court explained that even if only a part of the land is alienated or encumbered within the prohibitive period, such sale or encumbrance is void[68] and is sufficient cause for reversion to the state of the whole grant.

5. No time limit for the court to declare the nullity of the proceedings had on the ground that patentee is a fictitious person.

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67 G.R. N. L-11597, May 27, 1959.

68 The cases of **Sabas v. Garma**, 66 Phil. 471, **Register of Deeds v. Dir. of Lands**, 72 Phil. 313, **Villanueva v. Paras**, 69 Phil. 384, and **Ladrador v. De los Santos**, 66 Phil. 479 are in point applying the provision of said Law. The Supreme Court in the above cases held:

> "Except in favor of the Government or any of its branches, units, or institutions, lands acquired under homestead or free patents provisions of the Public Land Law are not subject to encumbrance or alienation from the date of the approval of the application and for a term of five years from and after the date of issuance of the patent or grant nor are they liable to the satisfaction of any debt contracted prior to the expiration of said period, but the improvements or crops on the land may be mortgaged or pledged to qualified persons, associations or corporations. The said period should be counted from the date of the patient and not that of the date of the patent and not that of the certificate of title."
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> sources, G.R. No. L-12793, Dec. 1959.

Sale within such prohibitive period is outlawed by Section 116 of Act 2874, now Section 118 of the Public Land Law, Commonwealth Act 141.

See also the cases of Angeles v. Court of Appeals, G.R. No. L-11024 Jan. 31 1958; Tipton v. Velasco, 6 Phil. 69; Santander v. Villanueva G.R., No. L-6184, Feb. 28, 1958.

69 De los Santos v. Roman Catholic Church of Midsayap, 50 O.G. 1588, Acierto v. De los Santos, G.R. No. L-5828, Sept. 29, 1954; Eugenio v. Perido, G.R. No. L-7083, May 1955; Corpus v. Villanueva, **supra**; Corpus v. Beltran, 51 O.G., 5631; Cadiz v. Nicolas, G.R. No. L-9188, Feb. 13, 1958; Santander v. Villanueva, **supra**; Felicis v. Iriola, G.R No L-11286, Feb. 28, 1958; Register of Deeds v. Dir. of Lands, **supra**; Villanueva v. Paras, **supra**; Labrador v. de los Santos, **supra**; Sabas v. Carma, **supra**.

In the case of **Alfredo Garcia v. Daniel Carpio, et al.**[70] a patent was issued to one Daniel Carpio on October 8, 1948. Said patent was duly registered and original certificate of title issued in pursuance thereof. Plaintiff on the other hand was an applicant over the same parcel of land and was in possession of the same even before the war. Discovering that said land was already covered by Carpio's patent, he filed on June 29, 1951 for cancellation of Carpio's patent and original certificate of title on the ground **inter alia** that Daniel Carpio is a fictitious person and non-existing and therefore the patent and certificate so issued are null and void **ab initio.**

Teodoro Diaz, one of the defendants, claiming to be Carpio's administrator opposed contending that the action has already prescribed having been brought more than one year after issuance of patent.

The Supreme Court ruled that the argument fails to contemplate that the case is one for the declaration of nullity of the proceedings had on the ground that the patentee, Daniel Carpio, is a fictitious person. The Court at this instance can declare it to be so at any time it is called upon to make such declaration, it concluded.

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70 G.R. No. L-13060, Oct. 31, 1959.