LAND REGISTRATION

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Although numerous cases on Land Registration were decided by the Supreme Court last year, there are relatively few cases of utmost significance. There are no noteworthy and precedent-setting decisions. Almost all are reiteration of well-settled and familiar doctrines.

This is so, for the highest tribunal of the land was called upon to pass on questions which had long been settled. Hence, there is a discernible trend for our Court to uphold past doctrines and holdings. The authors of this survey have tried to present the facts and rulings as concisely as possible. It is for the true students of law to investigate and ponder on their wisdom.

I. REGISTRATION UNDER THE TORRENS SYSTEM

A. Original Registration

1. Nature and effect of Registration under Act 496

a) A proceeding in rem

Registration of lands under the Torrens system is in the nature of proceeding in rem; as such it operates against the whole world and the decree issued therein is a conclusive adjudication of the ownership of the lands registered, not only against the parties who appeared in the said proceedings but also against the parties who were summoned by publication but did not appear.[1]

In the case of *Aduan et al. v. Alba* [2] the plaintiffs filed a petition for the registration of a parcel of land. The petition was published in the Official Gazette and notice given to the Solicitor General, Director of Lands and Director of Forestry. Registration was decreed by the court and a certificate of title was issued. Subsequently plaintiffs filed a motion for a writ of possession against the defendants who opposed the motion alleging that the portions of land where occupied by them and are subject of a homestead application. The court granted the writ. Defendants-appellants claimed that the decree of registration is null and void because they were not notified of the petition. The court decided for the peti-

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[1] El Hogar Filipino v. Olviga, 60 Phil. 17 (1934).
[2] G.R. No. L-17046, April 25, 1961.

tioner saying that the petition was published in the Official Gazette and this is deemed to be a sufficient notice in contemplation of law.

b) Conclusiveness of title

Section 38 of Act 496 provides that upon expiration of one year from the entry of the decree of registration, every decree or certificate of title issued in accordance with shall be incontrovertible. The period of one year to review a decree of registration on the ground of fraud should be computed from the date of issuance of patents and not from the issuance of the certificate of title.[3] In the case of *Director of Lands v. Jugado et al.*[4] the Director of Lands filed on December 5, 1956 a petition to cancel a homestead patent which it issued to respondent Jugado on May 4, 1954. The ground relied upon was since the land was covered by a prior and subsisting approved homestead application of one Villavira. The P.N.B. claimed to be a mortgagee of the property in good faith, moved to intervene and filed a motion to dismiss on the ground that the petition for cancellation was filed after the lapse of one year from the issuance of the certificate of title, and that therefore, the said title have already become perfect, absolute and indefeasible. *Held:* The title is incontrovertible. It has already been laid down as a doctrine in this jurisdiction that after the registration and issuance of the patent and certificate of title over a public land, the land covered thereby automatically comes under the operation of Act No. 496 and subject to all the safeguards provided therein.[5] Section 38 of Act 496 prohibits the raising of any question concerning the validity of a certificate of title after one year from entry of the decree of registration and the period of one year has been construed in the case of public land grants to begin from the issuance of the patent.[6] A public land patent when registered is a veritable Torrens title [7] and becomes indefeasible as a Torrens title upon the expiration of one year from the issuance thereof. As such it cannot be cancelled or annulled.

However, in the case of *Abing v. Amistad* [8] the court limited the application of section 38. On September 23, 1957, the oppositors Amistad claiming to be owners of two parcels of lands, filed before the CFI of Baguio a petition for the reopening of the Baguio Townsite reservation case pursuant to Rep. Act No. 931. The court found that Amistad and his predecessors in interests had been in con-

[3] Tuballa v. Cruz, G.R. No. L-13461, March 20, 1961.
[4] G.R. No. L-14702, May 23, 1961.
[5] El Hogar Filipino v. Olviga, *supra*.
[6] Sumail v. CFI of Cotabato, 51 O.G. 24f3.
[7] Dagdag v. Nepomuceno, G.R. No. L-12691, Feb. 27, 1959.
[8] G.R. No. L-16254, Oct. 26, 1961.

tinuous possession of said parcels of land before July 26, 1894 but that on account of the fact that they were not given personal notice of the reservation case, besides being illiterate, they were unable to file their claim therein. The lands were declared to be public in a decision rendered on November 13, 1952. The court rendered its decision for the petitioners Amistad on April 21, 1958, ordering the registration of the two parcels of land in his name. This decision became final; the court issued on June 26, 1958 an order directing the Commissioner of Land Registration to issue the decree, which decree was actually issued on July 10, 1958 and entered by the Register of Deeds in his book on July 21, 1958. On April 21, 1959, Abing, the occupant of the land, filed this petition in the Townsite Reservation case praying for annulment of the proceedings and cancellation of the title issued on the ground of frauds. The question raised was whether the petitioner can invoke in their favor section 38 which in part provides: ". . . such decree shall not be opened by reason of absence, infancy, or other disability of any person affected thereby nor by any proceeding in any court for reserving judgment or decrees; subject however to the right of any person deprived of land or any estate or interest therein by decree of registration obtained by fraud to file in the competent CFI a petition for review within one year after."

The court held that while the petition was filed within one year period prescribed by law and it set forth allegations of actual fraud perpetrated by respondents, nevertheless the petitioners cannot avail of the benefit afforded by section 38 principally because the land they claim to be entitled to is not private in nature but one that belongs to the public domain. And even if the scope of the application of said section be extended to a person occupying a portion of public land but who has an imperfect title and wants to register it in his name under the Public Land Law, still the petitioner's claim would fail since they began the occupation only since July 4, 1945. Moreover, since they claim that the lands in question are of public nature, it is apparent that the land they ask to register belongs to the government and as such cannot be the subject of private registration. At any rate the record shows that when the lands subject to litigation were decreed in the name of the appellees the government was notified but that its opposition notwithstanding they were registered in the name of the appellees. The government did not insist in its opposition. It is clear therefore that appellants have no cause of action; their right if any being only subsidiary to the government.[9]

[9] Aduan v. Alba, G.R. No. L-17046, April 25, 1961.

2. Authority of court sitting as Land Registration Court; jurisdiction

In the past the court pointed out in several cases [10] that the relief granted under section 112 can only be granted if there is unanimity among the parties, or there is no adverse claim or serious objection on the part of any in interest; otherwise the case becomes controversial and should be threshed out in an ordinary case or in the case where the incident properly belongs. In the case of *Floriza v. Court of Appeals and Tiamson* [11] the court held that the CFI of Rizal sitting as a Land Registration Court lacked the authority to render its judgment which declared the transaction a pacto de retro sale and ordering the registration of the affidavit of consolidation of ownership. The respondent's petition for the registration of an affidavit of consolidation of ownership over a lot which he alleged to have bought from the petitioner under a pacto de retro sale, was opposed by the petitioner on the ground that the transaction was in fact an equitable mortgage. The petition under consideration, the Supreme Court said, involves controversial issues arising from the serious objection on the part of the petitioners. The controversy should therefore be threshed out in an ordinary judicial action.

The case of *Jison v. Debuque* [12] involves the jurisdiction of the lower court to consider the motion to cancel the original certificate of title issued over three parcels of land. The petitioner Jison filed an opposition to the motion of the respondent Vera claiming that the lower court has not acquired jurisdiction over the person of the oppositor and over the subject matter because ownership is involved as a question therein. Vera alleged that she bought three parcels. The petitioner argued that since there is a controversy over the ownership of the lot in question, the lower court has no jurisdiction to hear the respondent's motion. *Held:* The lower court has jurisdiction. The question involves only the determination of whether the lands sold to the respondent are the same as those covered by the titles of the petitioner. The petitioner himself admitted having sold these parcels of land to one Julio Santos who in turn sold them to the respondent. These are the lands which the movant asked the lower court to order registration in her name. There is therefore no substantial controversy over the ownership of the said lots. The only question is whether said lots sold to the movant are the same lots covered by the certificate of title of the petitioner herein. If

[10] Tangaman v. Republic, December 29, 1953; Angeles v. Razon, October 26, 1959; RFC v. Alto Surety, March 24, 1960

[11] G.R. No. L-15043, Feb. 27, 1961

[12] G.R. No. L-17687, Dec. 28, 1961.

these are the same lot, then the lower court has jurisdiction under section 112 of Act 496 to order the cancellation of said titles and the issuance of new ones in the name of the movant. This is so because as already adverted, the petitioner himself does not question the existence and validity of the sale of the lots to the movant.

In the case of *Duran v. Oliva* [13] the court pointed out that "in a quite impressive line of decisions, it has been settled that a CFI has no jurisdiction to decree again the registration of land already decreed in an earlier land registration case and a second decree for the same is null and void." This is so because when once decreed by a court of competent jurisdiction, the title thus determined is already a res judicata binding on the whole world, the proceeding being in rem. The court has no power in a subsequent proceeding (not based on fraud and within a statutory period) to adjudicate the same title in favor of another. Furthermore, the registration of property in the name of the first registered owner in the Registry Book is a standing notice to the world that said property is already registered in his name. Hence, the later applicant is chargeable with notice that the land he applied for is already covered by a title so that he has no right whatsoever to apply for it. To declare the title invalid would defeat the very purpose of the Torrens System which is to quiet title to the land and guarantee its indefeasibility.

3. Enforcement of judgment

In the case of *Santa Ana v. Menla* [14] a decision in a land registration case was rendered in favor of the oppositors therein on November 28, 1931. On March 26, 1958, the oppositors filed a motion praying that a decree for the registration of the land be issued in their name. The applicant in the land registration opposed the petition on the ground that since the decision became final thirty days after November 28, 1931, the cause of action is barred by the Statute of Limitations. *Held:* Section 6 of Rule 39 of the Rules of Court which provides that judgment may be enforced within five years by motion and after five years but within ten years by an action, refers to civil action and is not applicable to special proceedings such as a land registration case. After ownership has been proved and confirmed by judicial declaration, no further proceeding to enforce said ownership is necessary except when the losing party had been in possession of the land and the winning party desires to oust him therefrom. The decision in the land registration

[13] G.R. No. L-16589, Sept. 29, 1961.
[14] G.R. No. L-15564, April 29, 1961.

case, unless the adverse or losing party is in possession, becomes final without any further action, upon the expiration of the period for perfecting an appeal.

a) Issuance of decree, a ministerial duty

In the same case of *Sta. Ana v. Menla* [15] the applicant-appellant contended that the lower court erred in ordering the issuance of the decree of registration based on a decision which allegedly has not yet become final, and any case on a decision that has been barred by a statute of limitations. The court said that the issuance of a decree is a ministerial duty both of the judge and the Land Registration Commissioner; and the failure of the court to issue the same for the reason that no motion therefor has been filed cannot prejudice the owner, or the person in whom the land is ordered to be registered. There is nothing in the law that limits the period within which the court may order or issue a decree. The reason is that the judgment is merely declaratory.

4. Certificate of title, corrections

Whether there can be an amendment of title under section 112 of Act No. 496 was decided by the court in the case of *Republic v. Abacite et al., and DBP,*[16] a petition for amendment of the original certificate of title issued in the name of the DBP was filed by the petitioner alleging that it is the owner of a parcel of land in Davao City with an area of 15.68882 hectares and previously covered by T.C.T. No. 4629; that by virtue of cadastral proceedings which included said parcel of land, petitioner filed its answer claiming ownership over the same, which was referred to as lot No. 1676, specifying the area to be 15.6882 hectares; and that in support of that allegation, T.C.T. No. T-4629 was submitted as exhibit. When the certificate of title was issued by the Register of Deeds the petitioner found out that lot No. 1676 merely contained 93,052 square meters. The petitioner therefore prays that O.C.T. No. 0-117 be amended to include the remaining portion of 63,830 square meters designated in the new cadastral plan as part of lot No. 1574 which was declared public land. The court allowed the amendment saying "prior to the institution of the cadastral proceedings, the whole of 15.6882 hectares was already covered by a Torrens Certificate of Title. Therefore, the cadastral proceedings would no longer be for the purpose of adjudicating ownership but merely to substitute the old certificate issued in the prior proceeding with a new one. The cadas-

[15] *Supra.*

[16] G.R. No. L-15415, April 26, 1961.

tral court, certainly, would have no jurisdiction to diminish or enlarge the area of the property thus already decreed.[17]

True it is, Justice Barrera pointed out, that the petitioner erroneously referred to its property as lot No. 1676, yet it has sufficiently described the same to be the lot already covered by T.C.T. No. T-4629 consisting of 15.6882 hectares. And by a manifestation dated March 1, 1960 the State, through the Solicitor General acknowledged the petitioner's right over the remaining portion and manifested its conformity to the amendment.

The amendment sought by the petitioner will not amount to an opening of the case; on the contrary it would even give effect to and make the later decree conform with the original adjudication. A petition for the correction of the area and description of the new certificate, of the land lawfully belonging to the petitioner and previously registered in his name, does not involve the reopening of the original decree. The amendment will not cause prejudice to third parties.

a) Annulment of Certificate of Title, process

In the case of *Benaza v. Bonilla et al*[18] the plaintiff brought suit against the defendants to recover possession of a parcel of land. One of the defendants filed a third party complaint against the original homestead owners of the land to enforce their warranties as vendors thereof. The third party complaint was later amplified to include a prayer for the nullification of the titles of three other transferees of the land originally covered by O.C.T. No. 773 which was allegedly cancelled through fraud. As counterclaim the defendant also asked for the cancellation of the plaintiff's certificate which was derived from the original certificate through the intervening certificates. The Court held: "It is self evident that the nullification of the three certificates of title that successively superseded the certificates of title of the original owners, the defendants vendors, as fraudulent and void, cannot be obtained upon a third party complaint against the original owners and the plaintiffs only, without joining as defendants the holders of the intervening certificates of title and giving them an opportunity to defend their acquisition and actuations."

5. Torrens title, non-prescriptibility

Section 46 of Act 496 provides that "no title to registered land in derogation to that of registered owner shall be acquired by pre-

[17] Government v. Arias, 36. Phil. 194 (1917).
[18] G.R. No. L-16560, April 28, 1961.

scription or adverse possession." This was applied in the case of *Rodriguez v. Francisco.*[19] In 1924 Ampil the registered owner of the land in question executed a deed of sale in favor of the defendant Francisco. However, the Torrens title continued in the name of the vendor. The same vendor executed a conditional sale of the same land to the plaintiff. Upon fulfillment of the condition the plaintiff filed an affidavit of consolidation of ownership. Since the certificate of title was in the possession of the defendant, the court, upon petition of the plaintiff ordered the cancellation of the unavailable certificate and the issuance of transfer certificate to the plaintiff. It was the contentions of the defendant, that he was the owner by prescription and adverse possession. The court held that the contention is untenable for registered lands are not subject to prescription.

a) Who can invoke non-prescriptibility?

In the case of *Pasion v. Pasion* [20] the court reiterated its previous ruling in the case of *Jocson v. Silos* [20a] holding that the action to recover land registered under the Torrens System on the ground of imprescriptibility of title is subject to a condition: that such action be brought by the registered owner. In this case a patent and certificate of title was issued in the name of the applicant B. Pasion pursuant to a homestead application. Upon his death his son the defendant herein executed a deed of extrajudicial partition adjudicating to himself the land in litigation. A transfer certificate of title was issued in his name on January 15, 1941. Plaintiff A. Pasion, the child of his second wife by an unknown father, brought this action to annul the extra-judicial partition and the transfer certificate on the ground of fraud. On July 22, 1958 A. Anca the only surviving sister of the second wife brought a complaint in intervention also alleging fraud. The appellant-intervenor avers that the land being covered by a homestead patent which has the nature of Torrens title, her claim should be deemed imprescriptible. *Held:* This claim is untenable for the imprescriptibility of a Torrens title can only be invoked by the person in whose name the title is registered. The rule that the owner of registered land can file an action to recover the same regardless of the period of prescription does not apply to a person who, not being the registered owner claims the land. In this case, he should file his action within the prescriptive period. Since the intervenor invoke fraud on the part of the defendant, she should have brought her action within four years

[19] G.R. No. L-12039, June 30, 1961.
[20] G.R. No. L-15757, May 31, 1961.
[20a] G.R. No. L-12998, July 25, 1960.

from the time the land was registered in the name of the defendant sometime in 1941.

The court believes, however, that under the principle of constructive trusteeship the intervenor's right to claim the land has not prescribed because of the principle that the right of a cestui que trust against the trustee who has committed a breach of his trust never prescribes.[21] This is the principle which in the opinion of the court should have been invoked in her favor if she were entitled to the land. However, the intervenor has no right to the portion of the land belonging to her sister since she is not the logical heir entitled to inherit it.

The same rule was applied in the case of *De los Reyes v. Pastor-fide.*[22] In this case, a homestead patent and a corresponding certificate of title was acquired in 1922 by the predecessor in interest of the plaintiff herein. Notwithstanding said previous grant the Bureau of Lands in 1935, acting upon the sales application of the defendant, sold the land to the latter at a public sale. The issue raised was who has title to the land. The defendant's alleged adverse and continuous occupation of the property since 1927 cannot be the basis of his claim of ownership. The land having been brought under the operation of the Torrens system the same cannot be acquired by prescription of adverse possession.

B. Subsequent Registration

1. Registration of sale, donation and other encumbrances

Any deed of conveyance such as sale or donation and any deed of incumbrance such as lease, easement, mortgage and any instrument creating trust or court order, attachment, judgment, decree, adverse claim, notice of lis pendens, letters of administration and a copy of the will and any legal incident affecting the registered land should be registered in order to bind or affect the same.[23]

However this principle does not apply to the unpaid vendor's lien over the land. In the case of *Barretto v. Villanueva et al.*[24] one R. Cruzado sold to the respondents her registered land and improvements thereon for ₱19,000. Only ₱7,000 was paid and for the balance a promissory note was executed. Thereafter, Villanueva mortgaged said property to the petitioner as security for a loan and such mortgage was duly recorded. Villanueva failed to pay the balance of purchase price as well as the loan. In the foreclosure action the court decreed that the unpaid vendor shall share pro rata

[21] Sevilla v. de los Angeles, G.R. No. L-7745, Nov. 18, 1955.
[22] G.R. No. L-14516, June 30, 1961.
[23] Sections 50-90, Act No. 496.
[24] G.R. No. L-14938, Jan. 28, 1961.

in the proceeds of the public sale pursuant to Articles 2242 and 2249 of the new Civil Code. The mortgage-appellants contend that inasmuch as the unpaid vendors lien was not registered it should not prejudice the former's registered right over the property.

Held: The vendor's lien need not be registered in order to enjoy the preferred credit status. Article 2242 of the New Civil Code enumerates the preferred claims, mortgages and liens on immovable and it specifically requires that—unlike unpaid price of real property sold—mortgage credits, in order to be given preference, should be recorded in the Registry of Property. As to the appellants' argument that to give unrecorded vendor's lien the same standing as the registered mortgage credit would be to nullify the principle in land registration that prior unrecorded interests cannot prejudice persons who subsequently acquire interest over the same property, the court said that the Land Registration Act itself respects without reserve or qualification the paramount rights of lien holder on real property. Thus section 70 provides: ". . . Nothing contained in this act shall in any way be construed to relieve registered land or the owners thereof . . . from liability to any lien of any description established by law on lands and the buildings thereof . . ."

In the case of *Revira v. Peña* [25] the court refused to register the deed of lease of the petitioner. It appears that the respondent owner mortgaged two parcels of land to the RFC to secure a loan. One of the conditions of the mortgage was that the property shall not be incumbered in any manner without the written consent of the mortgagee. Subsequently without securing such consent, the respondent executed in favor of the petitioner a contract of lease over the property. To protect his rights, the petitioner desired to have his lease right registered. The court however held that the petitioner has no valid adverse claim which may be ordered registered. His rights were derived from the respondent and he is therefore bound by the respondent's commitment in favor of the RFC.

The annotation of the sale of registered lots was involved in the case of *Register of Deeds v. Nicandro et al.*[26] On October 20, 1955 the PHHC sold to the DBP 159 lots in Quezon City which lots were included in a larger parcel of land covered by T.C.T. No. 1356. Later, unknown to the DBP the 159 lots were segregated and a new certificate covering the same was issued. Neither the subdivision plan segregating the same nor the fact that the old title was pro tanto cancelled by the new title was annotated on the old certificate. So that when the sale agreement was presented for registra-

[25] G.R. No. L-11781, March 24, 1961.
[26] G.R. No. L-166448, April 29, 1961.

tion, it was inscribed on the old certificate as a "sale of unsegregated portion" with the note "new titles to be issued upon presentation of the corresponding subdivision plan and technical description duly approved." The Nicandros subsequently presented for registration two deeds of sale executed by the PHHC involving two lots comprised in the said 159 lots. Registration was denied because only photostatic copies of the deeds were presented; but affidavits of adverse claims were annotated on the new certificate. Later the DBP found out that the lots were already covered by a new title. As a consequence, upon petition of the DBP, the Register of Deeds transferred the annotation of the deed of sale appearing on the old to the new certificate. The demand for the issuance of a new title was opposed by the respondents. The matter was referred to the land registration commissioner who ruled that the annotation of the sale on the old title did not constitute registration sufficient to bind innocent third parties. He claimed that when the sale was annotated on the old title, the owner's duplicate certificate was not surrendered and even if it did so, it would have no effect at all in as much as the old title was already cancelled and superceded by the new one. *Held:* It is sufficient registration. It appears on record that by virtue of an arrangement between the PHHC and the Register of Deeds, the last sheets of the certificate of title covering all the properties of the PHHC were kept in possession the Register of Deeds to facilitate the annotation therein of transaction entered into by the corporation. To effect registration of lands purchased from the PHHC, therefore, the vendee need not surrender the owner's duplicate certificate but would only have to present the deed of sale to the Register of Deeds and the latter could already annotate the said deed on the corresponding title. Neither can it be claimed that the annotation of the sale in favor of the DBP on the old title does not constitute sufficient registration to bind third parties for on that date, the old one was not yet cancelled nor any inscription appeared thereon to the effect that a new certificate was already issued. The annotation thereon of the sale to the DBP is valid and effective.

2. Cancellation of encumbrances

Li Yao v. De Leon et al.[27] It appears that as a condition for the issuance of a building permit, the city engineer pursuant to a city ordinance required that a private alley be opened on a lot then belonging to Cu-Unjeng. The latter executed a public instrument undertaking to open and maintain said private alley, which instrument was annotated on the certificante of title of the lot. The build-

[27] G.R. No. L-14324, April 12, 1961

ings were destroyed subsequently. Petitioner, who later acquired the lot, petitioned for the cancellation of the encumbrance therein under Sec. 112 of Act No. 496. Respondents, owners of the adjacent lots opposed. The Court in resolving the issue for the petitioner held that respondents have no right to oppose the cancellation and to object to the exercise of the lower of its jurisdiction under sec. 112. The only parties to the undertaking were the city and the original owner. The city engineer now consents to the cancellation of the encumbrance. The respondents not being parties thereto have no legal interest in the encumbrance enforceable under Sec. 112.

3. Issuance of new title

The question of the issuance of a new title is involved in the case of *Balanga v. Court of Appeals and Manalang.*[28] The petitioner herein obtained a loan from one Clemente and as a security, delivered her transfer certificate of title covering a parcel of land together with a house and promised to execute later a deed of mortgage over the same. She failed to fulfill her promise and to pay the loan when it became due. An action was filed by Clemente wherein the petitioner was declared in default. Judgment was entered in favor of the plaintiffs in that action. Pursuant to the order of execution the land and the improvements thereon were sold to Clemente as the highest bidder. Subsequently Clemente's counsel Manalang bought the property. Upon failure of the judgment debtor to redeem, the certificate of sale together with the deed of sale was registered and annotated on the back of the certificate of title. Manalang later filed a petition in the CFI to cancel the petitioner's title and for the issuance of one in his name pursuant to sec. 78 of Act No. 496. Petitioner interposed several objections among them was that she was raising controversial questions, as to the nullity of the sale, which can only be passed by the regular court.

The Court upheld the petitioner's contention saying that the granting of a new certificate of title pursuant to Sec. 78 is qualified by the proviso that "at any time prior to the entry of a new certificate the registered owner may pursue all his lawful remedies to impeach or annul proceedings under execution to enforce liens with any description." The right, therefore, to petition for a new certificate under said section is not absolute but subject to the determination of any objection that may be interposed relative to the validity of the proceedings leading to the transfer of the land subject thereof which should be threshed out in a separate appropriate action.

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[28] G.R. No. L-15438, Jan. 31, 1961.

4. Adverse Claim

Sec. 110 of Act No. 496 provides:

> "Whoever claims any right or interest in registered land adverse to the registered owner arising subsequent to the date of the original registration, may if no other provision is made in this Act for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired and a reference to the volume, and page of the certificate of title of the registered owner and a description of the land in which the right or interest is claimed . . ."

The Court construed this provision in the case of *Tuason et al. v. Register of Deeds and Aquila.*[29] Respondent Aquila requested the Register of Deeds to annotate his claim which was the subject of a separate suit for annulment of title as adverse claim. The Register of Deeds annotated the same. Petitioner Tuason filed a petition for cancellation of said claim alleging that Aquila had a claim only for the 1,400 sq. m. of the 5,297,429.3 sq. m. covered by the title and besides this claim is subject of suit. *Held:* Under Sec. 110 of Act No. 496, an adverse claim must consist of a right or interest in registered lands adverse to the registered owner arising subsequent to the date of the original registration. However in this case Aquila's claim was based on the sale of 1,400 sq m. made to him by one who allegedly had title by possessory information and such claim is based on one whose alleged right existed before the original registration. His claim is improper and his annotation thereof should be cancelled.

In the case of *Register of Deeds v. Nicandro et al.*[30] the Court also pointed out that Sec. 110 provides that the remedy for the filing of an adverse claim can be availed of only when there is no other provision in the law for the registration of the alleged right or interest in the property. The claim herein of the respondent was based in a perfected contract of sale. Considering that Act No. 496 specifically prescribes the procedure for registration of a vendee's right on a registered property,[31] the remedy provided in Sec. 110 would be ineffective for the purpose of protecting the vendee's right in the property.

II. REGISTRATION UNDER ADMINISTRATIVE PROCEEDINGS

A. Authority of the Director of Lands

1. Duty to investigate to a certain material facts.

Section 91 of the Public Land Law (Commonwealth Act No. 141) imposes the duty of the Director of Lands to make necessary

[29] G.R. No. L-12760, August 29, 1961.
[30] *Supra*, note 26.
[31] Section 57, Act No. 496.

investigations for the purpose of ascertaining whether the material facts set out in the application are true or whether they continue to exist and are maintained and preserved in good faith.

The case of *Cebedo et al. v. Director of Lands et al.*[32] discusses this duty. It appears that separate patents and certificates of title for two lots were issued to the petitioners. Respondents claiming to be owners and occupants of the lots filed two cases in the CFI to annul the titles issued on the ground of fraud. Both cases were dismissed on the ground that the plaintiffs therein had not exhausted the administrative remedies available. So the plaintiffs filed a protest with the Director of Lands who issued an order declaring that steps shall be taken in the proper court for the cancellation of the patents and the certificates of title, and also directing the district land officer to conduct investigation of the case. This order gave rise to the present petition for prohibition. *Held:* Under Sec. 91 of the Public Land Law, the Director of Lands has not only the authority but the duty to investigate the facts that had led to the issuance of the free patent to ascertain whether the same were true, or whether they still exist and are maintained and preserved in good faith. That in such investigation, the existence of bad faith, fraud, concealment or fraudulent and illegal modification of essential facts may be inquired into. It is his duty to file the corresponding court action for the reversion of the properties to the State if facts disclosed by the investigation so warrant. Furthermore, prohibition cannot lie because petitioners-appellants could have first appealed to the Secretary of Agriculture and Natural Resources before commencing this action.

2. Nature of his decisions

In the case of *Abig et al v. Constantino et al.*[33] the petitioners herein sought the judicial review of the decision of the Director ot Lands. They claimed portions of the land applied for as homestead by the respondents. The issues were duly investigated by the director before whom the parties presented their opposing claims. The director decided for the applicant, which decision was affirmed by the Department of Agriculture and Natural Resources. The petitioners herein alleged that the director and the department secretary decided the land case with grave abuse of discretion amounting to lack of jurisdiction. *Held:* A decision rendered by the Director of Lands and approved by the Secretary of Agriculture and Natural Resources upon questions of facts is conclusive and is not subject to review by the courts, in the absence of showing that such decision

[32] G.R. No. L-16448, *supra*.
[33] G.R. No. L-12460, May 31, 1961.

was rendered in the consequence of fraud, imposition or mistake other than error of judgment in estimating the value or effect of evidence.[34] The appellants do not deny the authority and jurisdiction of the Director of Lands and the Secretary of Agriculture and Natural Resources to act upon the homestead application and decide it on the bases of the evidence presented. The contention of the appellants may be reduced to the claim that the public officials above mentioned did not decide the case in accordance with evidence. This if true, would constitute mere error of judgment in estimating the value or effect of evidence.

The same principle was reiterated in the case of *Sanchez v. Tamsi*.[35] A conflict in the areas of the lots was involved in the defendant's homestead application and the plaintiff's sales application. The Director of Lands rendered judgment ordering the exclusion of the contested lot, Lot No. 2, from the homestead patent issued. However by mistake or inadvertence, the homestead patent issued in favor of the defendant included said lot. So the plaintiff brought this petition for the cancellation of the homestead patent. As to the defendant's contention that the findings of fact made by the land officers are conclusive, the court held that the conclusiveness is always conditioned upon the absence of fraud, imposition or mistake, other than error of judgment in estimating the value or effect of evidence. Where the error or fraud taints the administrative decision, the same remains subject to review by the courts and the latter may do so at the instance of any interested party. In view of the unwarranted inclusion of said lot in defendants patent and certificate of title, the defendant must be deemed to hold said lot in trust for the real owner, the Republic of the Philippines, by virtue of Act 1456 of the New Civil Code. Reconveyance of the lot in favor of the plaintiff cannot be ordered because he had not yet acquired ownership or real rights over the lot since his sales application had not yet been approved. Neither can the defendant be ordered to reconvey the lot to the Republic of the Philippines because the latter is not even a party to the action and is seeking no relief herein. The lot should be held in trust by the defendant and such trust should be noted in the certificate of title. The government may seek its remedy through proper proceedings, this is without prejudice to the plaintiffs right under his sales application.

B. Vested right, when acquired

It is settled doctrine that an applicant may be said to have acquired a vested right over a homestead only by the presentation of

[34] Urtua v. Singson, 59 Phil. 440 (1934).
[35] G.R. No. L-16786, June 30, 1961.

the final proof and its approval by the Director of Lands. Hence when an applicant has complied with all the conditions which entitles him to a patent he acquires vested right therein. The execution and delivery of the patent after the right to a particular parcel of land has become complete, are the mere ministerial acts of the officer charged with that duty.[36] The Court reiterated this doctrine in the case of *Soliman v. Icdang*.[37]

The case of *Nieto v. Quines and Pio* [38] involves the issue of who has the title to a contested lot. As found by the trial court, the respondent Quines had religiously complied with all the requirements of the Public Land Act, pursuant to his homestead application. Considering the requirement that the final proof must be presented within five years from the approval of the application [38a] it is safe to assume that the respondent submitted his final proof way back in 1923 and that the same was approved not long after before the land was the subject of cadastral proceedings in 1927 wherein the petitioner claimed it. Unfortunately there was some delay in the ministerial act of issuing the patent. Nevertheless having complied with all the terms and the conditions which would entitle him to a patent, the respondent Quines even without a patent actually issued, has unquestionably acquired a vested right on the land and is to be regarded as the equitable owner thereof.[39]

1. When vested right acquired in mining claim

In the case of *Bambao et al. v. Lednicky*,[40] the Court decided on the mining claim of the respondents. It appears that on Feb. 27, 1937, a duly notarized deed of sale was executed by the plaintiff's predecessors conveying said mining claims to the defendant Lepanto Consolidated Mining Co. Plaintiffs brought an action to recover title to and possession of the realty, averring that the sale was void having been induced by fraud allegedly committed by the defendant. Defendant set up the defenses of prescription and laches. Plaintiff-appellants argued that adverse possession does not lie to confer title to mineral lands. *Held:* Upon perfection of the location of mineral lands by the appellants' predecessors in Oct. 1933, prior to the application of the Constitution, the mining claims become segregated from the public domain and the beneficial ownership, being a private right could certainly pass to another by adverse possession in accordance with law.

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[36] Ingaran v. Ramelo, March 30, 1960, Balboa v. Farrales, 51 Phil. 498 (1928); Republic v. Diamond, October 31, 1955.
[37] G.R. No. L-15924, May 31, 1961.
[38] G.R. No. L-14643, Jan. 28, 1961.
[38a] Sec. 14, Public Land Law.
[39] Balboa v. Farrales, *supra*.
[40] G.R. No. L-15495, Jan. 28, 1961.

C. Five-year Prohibitory period:

Section 118 of Commonwealth Act No. 141, provides that except in favor of the government or any of its branches, units or institutions or legally constituted banking corporations, lands acquired under free patent or homestead provisions shall not be 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 shall they become 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 Court applied this provision in the case of *Manzano et al. v. Ocampo et al.*[41] Manzano here was the grantee of a homestead patent and certificate of title in 1934. In 1938, he sold the homestead to Ocampo. Knowing, however, that the sale at that time was prohibited, the parties agreed that the deed of sale was to be made after the lapse of five years from the issuance of the patent. In 1939, the Undersecretary of Agriculture and Natural Resources approved the sale and executed the formal deed of sale. The validity of the contract is now in issue. Said the Court: the sale is null and void being made within the prohibitory period of five years from the date of the issuance of patent in violation of the Public Land Law. The execution of the formal deed after the expiration of the prohibitory period and the subsequent approval thereof by the Undersecretary did not and could not legalize a contract that was void from its inception.[42]

The Supreme Court through Justice J. B. L. Reyes went on to say: "The law prohibiting any alienation of the homestead land with five years from the issuance of patent does not distinguish between executory contracts and consummated sales; and it would hardly be in keeping with the primordial aim of the prohibition to preserve and to keep in the family of the homesteader the land that the state had gratuitously given to them to hold a valid sale actually perfected during the period of prohibition but with the execution of the formal deed of conveyance and the delivery of possession of the land sold to the buyer deferred until after the expiration of the prohibitory period, purposely to circumvent the very law that declare invalid such transaction to protect the homesteader and his family. To hold valid such arrangement would be to throw open the door wide open to all possible fraudulent subterfuges and schemes that

[41] G.R. No. L-14778, Feb. 28, 1961.

[42] Santander v. Villanueva, G.R. No. L-6184, Feb. 28, 1958; Cadiz v. Nicolás, Feb. 13, 1958.

persons interested in homestead land may devise to circumvent and defeat the provision prohibiting their alienation within five years from the issuance of patent."

In the case of *Tolentino v. Baltazar*,[43] the Court had a similar holding. Less than one year after the approval of the homestead application, Angel Baltazar mortgaged the present and future improvements on the land to the plaintiff. After the death of Angel Baltazar, the land was conveyed to his son, the defendant herein who secured the issuance of the patent and the certificate of title over said land. When the loan fell due, the plaintiff-mortgagee filed an action against the decedent's estate, the defendant and the Director of Lands for the cancellation of title on the ground of fraud. The lower court dismissed the complaint against the estate. Upon appeal the Court of Appeals held that the mortgage was in the nature of a chattel mortgage and that inasmuch as the homestead can not be liable for any debt contracted within five years from the issuance of patent, the mortgage cannot be annotated on the title for otherwise, said mortgage would be an encumbrance upon the homestead and would thus violate the spirit of Commonwealth Act No. 141.

The Court in resolving the issue said that Section 118 of Commonwealth Act No. 141, explicitly permits the encumbrance by mortgage or pledge, of the improvements and crops on the land, without any limitation in point of time. Although the parties to a contract may treat certain improvements and crops as chattels insofar as they are concerned, it is now settled in this jurisdiction, in general, and insofar as the public are concerned, such improvements if falling under the provision of Art. 415 of the New Civil Code are immovable property.[44] As a consequence, a mortgage constituted on said improvements must be susceptible of registration as a real estate mortgage and of annotation on the certificate of title to the land of which they form part, although the land itself may not be subject to such encumbrance, if the debt thereby was contracted within the five-year prohibitory period. Otherwise, the provision authorizing the mortgaging of the improvements would be defeated. Furthermore, since the defendant knew before he got the patent and certificate of title, that the improvements, present and future, on the land were subject to a valid and subsisting mortgage in favor of the plaintiff and acknowledged the same, he must be deemed to have secured such patent and title subject to a subsisting trust insofar as the mortgage is concerned.

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[43] G.R. No. L-14597, March 27, 1961.

The case of *Marcelo v. Marcos* [45] involves the issue of whether or not a mortgagee may foreclose a mortgage on a piece of land covered by a free patent where the mortgage was executed before the patent was issued and is sought to be foreclosed within the five years from its issuance.

The Court resolved the issue against the mortgagee, saying that her right to foreclose the mortgage on the land in question depends not on whether she could take such land within the prohibitive period but on whether the deed of mortgage is valid and enforceable. As it is an essential requisite for the validity of the mortgage, applying Art. 2085, new Civil Code, the mortgage here in question is void because at the time it was constituted the mortgagor was not yet the owner of the land mortgaged. He could not for that reason encumber the same to the plaintiff-appellee. Nor could the subsequent acquisition by the mortgagor of the title over said land through the issuance of the patent validate the mortgage. The doctrine of estoppel cannot apply here since upon the issuance of the patent, said land was thereby brought under the operation of the Public Land Act that prohibits the taking of said lot for the satisfaction of debts contracted prior to the expiration of the five year period. This prohibition should include not only debts contracted during the five-year period immediately preceding the issuance of the patent but also those contracted before the issuance, if the purpose of the law which is "to preserve the keep the family of the homesteader that portion of public land which the State has gratuitously given him" [46] is to be upheld.

III. Disposition Under Special Laws

A. Act No. 3344 covers improvements of unregistered lands.

In the case of *Salita v. Calleja*,[47] defendant Calleja, plaintiff in a previous case against Domingo, the owner of the house in question, secured a preliminary writ of attachment upon said house. However, inasmuch as the land on which the house was built, was not yet fully paid for by Domingo to the Realty Investment Inc. and that the house was not registered, the notice of attachment was not annotated on the certificate of title covering the land which did not mention any improvement. Later the ownership of the land was conveyed to Domingo who later sold it with the house to the plaintiff herein. Meanwhile the defendant was able to obtain judgment in

[44] Evangelista v. Alto Surety, April 23, 1958; Manarang v. Ofilada, O.G. No. 954; Republic v. Ceniza, December 17, 1951; Leung Yee v. Strong Machinery Co., 37 Phil. 644 (1918).
[45] G.R. No. L-17072, October 31, 1961.
[46] Pascua v. Talens, G.R. No. L-348, April 30, 1948.
[47] G.R. No. L-17314, June 30, 1961.

the other case against Domingo. A writ of execution was issued. Hence, this action for injunction. The plaintiff claims that since the certificate covering the land did not mention any improvement and since the house is real property and not registered under Act No. 496 or the Spanish Mortgage Law, the registry of the attachment under Act No. 3344 is binding upon all subsequent claimants to the house.

Held: Act 3344 expressly provides that the register shall contain, among other things ". . . the nature of each piece of land unregistered) and its improvements only and not any other kind of real estate or properties." The words "own" and "only" clearly mean improvements on unregistered lands alone. To hold otherwise would result in the anomalous situation of two registrations, one under Act No. 496 with respect to unimproved lands and another under Act 3344 for improvements subsequently introduced on the same land. Since the attachment here in this case refers to a house on registered land, it is evident that the registration thereof under Act 3344 was invalid and has no legal effect on third persons and more particularly on the plaintiff.

B. Heirs in Law under Commonwealth Act 141

In the case of *Soliman v. Icdang* [48] the Director of Lands had approved a homestead patent in 1941 filed by Adolfo Icdang, the son of the defendant herein. In 1944, the applicant was arrested by the Japanese and is now presumed dead. In 1954, the plaintiff, wife of the applicant, secured a patent and certificate of title over the land, issued in the name of "the heirs of Adolfo Icdang." Meanwhile the defendants were in possession of the land. Plaintiff now seeks partition claiming that she is entitled to the one-half share of the land as it was conjugal property. *Issue:* Who are the heirs of the applicant? *Held:* It is settled doctrine that "an applicant may be said to have acquired a vested right over the homestead only by the presentation of final proof and its approval by the director of lands." [49] Here the final proof was approved several years after death of the applicant and the dissolution of the conjugal partnership. It belonged to the heirs of the applicant pursuant to Section 105 of Commonwealth Act 141. The present law has abolished the right of the widow of the deceased homestead applicant to secure under the old Public Land Law of 1903 a patent in her name. Under the law now enforced the patent shall issue to the "heirs in law" of the deceased

[48] G.R. No. L-15924, May 31, 1961.
[49] Ingaran v. Ramelo, March 30, 1960; Balboa v. Farrales, 51 Phil. 498 (1928); Republic v. Daimon, *supra*.

not to his widow if the former can show that they have complied with requirements therein. The issuance of the patent by the Director of Lands showed that such requirements were complied with, not by the plaintiff although she was the one who urged the issuance of the patent, but by the heirs of the deceased.

C. Effect of patent registered in accordance with Sec. 122 of Act 496

Jose Duran v. Oliva.[50] The applicants filed an application for registration in their names 16 lots. Oppositors filed motion alleging that the court has no jurisdiction to decree registration of the lots claimed by them because the lots are already registered in their names; they presented their original certificates of title with their opposition. The certificates involved seven lots which they had obtained upon homestead patents. Applicant-appellants argued in support of their petition that the certificate of title based on mere homestead, sales, or free patent covering private land is null and void, that it is the decree of registration, not the certificate of title which confers the character of incontestability of title. *Held:* A patent once registered under the Land Registration Act becomes as indefeasible title as a Torrens Title and cannot thereafter be the subject of an investigation for determination of judgment of a cadastral case. Any new title which cadastral court may order to be issued is void and should be cancelled. All that the cadastral court may do is to make corrections of technical errors in the description of the property contained in the title or to proceed to the partition thereof if it is owned by two or more co-owners.[51] The same may be said of sales patent. Once a certificate of title is issued under the Land Registration Act in lieu of the Sales patent, the land is considered registered under the Torrens system and the title of the patentee becomes indefeasible. As the title registered under the Act is indefeasible it follows that the CFI have no more power or jurisdiction to entertain proceedings for registration of same parcels of land already covered by the certificate of titles by the respondents.[52]

[50] G.R. No. L-16589, September 29, 1961.
[51] Ramoso v. Obligado, 70 Phil. 86 (1940); see also Republic v. Carle, G.R. No. L-12485, July 31, 1959; Samonte v. Descaller, G.R. No. L-12964, Feb. 29, 1960.
[52] Rojas v. City of Tagaytay, Nov. 24, 1959.