

A SURVEY OF 1962 SUPREME COURT DECISIONS IN LAND REGISTRATION

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The present system of land registration in the Philippines is governed principally by three laws. The basic law is the Land Registration Act, Act No. 496, which took effect on February 1, 1903. Establishing the Torrens System, this Act provides in Section 124 that the old system of registration under the Spanish Mortgage Law shall continue in force insofar as it is not amended or modified by Act No. 496.

Ancillary to the Land Registration Act are the Cadastral Law, Act No. 2259, which took effect on February 11, 1913, and the Public Land Law, Com. Act No. 141, which took effect on November 7, 1936.

There are several other laws¹ relative to land registration, but these are merely supplementary to the above mentioned Acts, or else they apply to special situations. Consequently, it is expected that the bulk of the cases on land registration would involve an interpretation and application of the major laws. In the more than 40 cases here surveyed, well-established principles and rules had been upheld, re-stated, amplified, or clarified.

APPLICANTS

Section 19 of Act No. 496, as amended by Act No. 809, Act No. 1108, and Act No. 2164, enumerates who may apply for registration of title to private lands.² The fifth group includes cor-

* Recent Documents Editor, *Philippine Law Journal*, 1963-64.

¹ Notable among these are Rep. Act No. 26, "An Act Providing a Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed"; Act No. 3344, "An Act to Amend Section 194 of the Administrative Code"; and the special laws pertaining to the disposition of public lands.

² *First.* The person or persons claiming, singly or collectively, to own the legal estate in fee simple.

Second. The person or persons claiming, singly or collectively, to have the power of disposing of the legal estate in fee simple.

Third. The person or persons claiming, singly or collectively, to own or hold any land under a possessory information title, acquired under the provisions of the Mortgage Law of the Philippine Islands and the general regulations for the execution of the same.

Fourth. Infants or other persons under disability may make application by their legally appointed guardians, but the person in whose behalf the application is made shall be named as applicant by the guardian.

Fifth. Corporations may make application by any officer duly authorized by vote of the directors.

Foreign corporations may apply for and secure registration of title to lands in the name of the corporation, subject only to the limitations applied or to be

porations. "Foreign corporation may apply for and secure registration of title to lands in the name of the corporation, subject only to the limitations applied or to be applied to domestic corporations. . . . [A]ny other provision or provisions of existing law limiting or prohibiting the holding of land in the Philippine Islands by aliens or by foreign associations, companies, or commercial bodies, are hereby repealed."

This provision is now limited by Section 5 of Article XIII of the Constitution,³ so that a foreign corporation may only apply for the registration of the property which it had acquired prior to the taking effect of the Constitution on November 15, 1935.⁴

Temporary acquisition of lands by aliens is prohibited.

In *Register of Deeds of Manila v. China Banking Corporation*,⁵ an employee of the Corporation executed a deed of transfer in favor of said Corporation in order to satisfy his civil liability. The Registrar of Deeds refused to register the deed of transfer on the ground that the Corporation was alien-owned.

In upholding this refusal, the Supreme Court ruled that an alien-owned bank cannot acquire ownership of the residential lot covered by a transfer certificate of title by virtue of a deed of transfer. This case did not fall within "temporary holding" permitted by Section 25 of R.A. 337, allowing commercial banks to purchase, hold, and convey real estate for special purposes. "The Constitution is specific—ownership cannot be transferred to aliens," said the Court. "It is the character and nature of the possession and not the length of possession that is material."

ANSWER

In registration proceedings, answer (often called "opposition") is the "pleading filed by any person, whether named in the notice

applied to domestic corporations. Article 18 of the royal decree of February 13, 1894, concerning the adjustment and sale of public lands in the Philippine Islands and article 77 of the regulations for the execution of the same, together with any other provision or provisions of existing law limiting or prohibiting the holding of land in the Philippines by aliens or by foreign associations, companies, or commercial bodies, are hereby repealed.

Sixth. The Government of the United States, or of the Philippine Islands, or of any province or municipality therein, may make application through any agency by it respectively and duly authorized.

Seventh. An executor or administrator duly appointed under the laws of the Philippine Islands may make application on behalf of the estate of the deceased.

³ Section 5 of Article XIII of the Constitution provides: "Save in cases of hereditary succession, no private agricultural land shall be transferred or assigned except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain in the Philippines."

⁴ VENTURA, LAND TITLES AND DEEDS (1955), p. 87.

⁵ G.R. No. L-11964, April 28, 1962.

for hearing or not, in which he sets forth the interest he has in the property sought to be registered, all his objections to the application and the remedy he desires to ask of the Court.⁶

It is a well settled rule that private citizens cannot represent the interest of the Government.⁷ If the property included in the application is not private land, then the Government of the Philippines, or the Director of Lands, represented by the Solicitor-General, files an opposition on the ground that it is a public land, or that it belongs to the public domain. In the same manner, the provincial fiscal representing a province or a municipality may object on the ground that the land is a patrimonial property of said government subdivision.

Claim of private person is subordinate to that of the Government.

Section 34 of Act No. 496 provides: "Any person claiming an interest, . . . may appear and file an answer. . . ." In *Leyva v. Jandoc*,⁸ the Supreme Court clarified this provision by ruling that "notwithstanding the provisions of Section 34, Act 496, a person whose right is completely subordinate to the interest of the government and predicated upon the property in question being a public domain cannot intervene or file opposition in a land registration proceedings, except in subordination to the opposition of the government. The interests of the government cannot be represented by private persons." In this case, the oppositors included the government and the Leyvas whose right was based "merely on a foreshore lease contract between them and the Secretary of Agriculture and Natural Resources." Since the land in question is public land, and since the Director of Lands had already filed an opposition, the Leyvas had no right to appear as independent oppositors. However, they could collaborate with the provincial fiscal.

HEARING

If no answer or opposition to an application for registration is filed, the court may at once, on petition of the applicant, order that a general default be entered in the record of the case. And, if an answer has been filed, an order of default is entered against all persons who did not file an opposition within the time allowed by law.⁹

⁶ Section 34, Act No. 496; VENTURA, p. 120.

⁷ Roxas v. Cueva, 8 Phil. 467.

⁸ G.R. No. L-16965, February 28, 1962.

⁹ Sections 35 and 36, Act No. 496.

Order of default may be set aside.

In *Director of Lands v. Abad*,¹⁰ an order of general default was entered by the cadastral court against the whole world. At the hearing the claimant presented her evidence in support of her claim of possession and ownership of certain lots.

On June 24, Castillo filed a motion to set aside the hearing of the order if already issued. On September 28, the trial court admitted Castillo's answer and declared the two lots contested. On October 15, however, the trial court issued an order denying Castillo's motion of June 24, and the lots were adjudicated to Castañeda "considering evidence submitted . . . in the hearing."

What was the effect of the court's action of September 28? The Supreme Court held that the action of the lower court in entering an order adjudicating the contested lots without any further hearing and without giving Castillo an opportunity to be heard and present her evidence in support of her claim constituted a reversible error. "The legal effect of this order (September 28) is the setting aside of the previous order of default insofar as appellant Castillo is concerned and the consequent admission of her answer claiming lots in question and the recognition of her standing in court."

JUDGMENT

The principle of *res judicata* means that an action in court is barred by prior judgment. In registration cases, although there is no plaintiff or defendant, there is an applicant and perhaps an opposition. Hence, the elements of *res judicata* may be present in a registration proceeding.¹¹

Principle of res judicata applies in registration proceedings.

In the case of *Aring v. Original*,¹² the Supreme Court laid down the requisite elements in order that a judgment in a registration case may be considered *res judicata*, namely: (a) the former judgment must be final, (b) it must be rendered by court of competent jurisdiction, (c) it must be a judgment on the merits, (d) there must be between the first and second actions identity of parties, of subject matter, and of course of action.

In this case, Original filed the first action of July 27, 1955 against Aring and company. It was an action to recover the ownership and possession of two parcels of land both covered by certi-

¹⁰ G.R. No. L-18372, November 29, 1962.

¹¹ VENTURA, p. 155.

¹² G.R. No. L-18464, December 29, 1962.

ificates of title on the ground that the titles were secured through false representation. Aring had falsely presented himself and company as the only heirs. In its decision of August 30, 1956, the Court declared Original owner of said lands, and ordered that title be issued in his name, cancelling those falsely issued in Aring's name.

The second action was instituted on January 11, 1961, more than four years after the above decision was issued. Aring instituted in the same Court of First Instance an action seeking the annulment of the decision in the previous case as well as the recovery of title and possession of the two parcels of land. Among the grounds cited were: the decision was obtained through fraud; there was no cause of action; and lack of jurisdiction.

The Supreme Court decided that the action was barred by prior judgment, for "while the grounds here on which the two cases were predicated are technically at variance, in substance they aim at the same objective: the recovery of the title of the same properties."

Whether there was identity of cause of action was the question in *Navarro v. Director of Lands*.¹³ The appellant's contention that he should be allowed to prove his present claim because the judgment in the former cadastral proceeding declaring the lots in question as public lands was based on the insufficiency of his evidence to prove continuous possession since July 26, 1894. His present claim, he said, is based upon the new law, Rep. Act No. 1924, under which possession for only 30 years is required; therefore, the issue has been entirely changed.

In declaring this contention without merit, the Court held: "The cause of action in both the present case and the former cadastral proceeding is the registration of the lots in question. The specific issue involved is whether the lots applied for are part of the public domain or have so far been possessed by appellant that he must be deemed to have acquired title thereto which is sufficient for registration in his name. The declaration by final judgment in the cadastral proceeding that they are public lands settled this issue once and for all."

Again, in *Garcia v. Fenoy*,¹⁴ the Court ruled that a prior decree of registration barred action for reconveyance. After proper hearing, an original certificate of title was issued to the donees of a piece of land. Heirs of the donor brought an action for reconveyance on the ground of fraud several years after the certificates were is-

¹³ G.R. No. L-18814, July 31, 1962.

¹⁴ G.R. No. L-17560, October 31, 1962.

sued. *Held*: "Action for reconveyance is barred by prior decree of registration and also by the statute of limitations."

The same principle of *res judicata* was applied in *Garcia v. De Guzman*.¹⁵

DECREE OF REGISTRATION

It is well to remember the basic fact that a *decree of registration* is different from a *certificate of title*.

A decree of registration is the order of the court prepared and issued by the Commissioner of Land Registration in pursuance of an order of the Court which is issued after the judgment has become final.¹⁶

Section 38 of Act No. 496 states that a decree "shall be conclusive upon and against all persons including the Insular Government . . . and all the branches thereof" This principle applies to ordinary actions for the recovery of real property which is covered by a Torrens title upon the theory that its registration has the effect of a constructive notice to the whole world.

However, this principle that a decree of registration is incontrovertible is subject to one exception: "the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in the competent Court of First Instance a petition for review within one year¹⁷ after entry of the decree provided no innocent purchaser for value has acquired an interest."

Action to enforce a trust is imprescriptible.

Action for reconveyance must be filed within one year from the entry of the decree of registration. This means that after the expiration of the one year period, the right of the owner of the land registered in the name of another is forever barred.

This rule, however, does not apply when the action is to enforce a trust. In the case of *Juan v. Zuñiga*,¹⁸ the Court held that the theory of constructive notice of fraud cannot be availed of "when the purpose of the action is to compel a trustee to convey the pro-

¹⁵ G.R. No. L-15988, August 30, 1962.

¹⁶ Section 21, Act No. 2347; R.A. No. 1151; VENTURA, p. 165.

¹⁷ The one-year period is counted from the actual date of issuance of the decree by the Land Registration Commission and not from the date of the order of the court directing the issuance of said decree. See *De los Reyes v. De Villa*, 48 Phil. 277.

¹⁸ G.R. No. L-17044, April 28, 1962.

party registered in his name for the benefit of the *cestui que trust*. For if a person obtains a legal title to property by fraud or concealment, courts of equity will impress upon the title a so-called constructive trust in favor of the defrauded party . . . and grants to the defrauded party the right to vindicate the property regardless of the lapse of time."

In the case of *Jacinto v. Jacinto*,¹⁹ the Court reiterated this rule: "A co-heir who, through fraud, succeeds in obtaining a certificate of title in his name to the prejudice of his co-heirs, is deemed to hold the land in trust for the latter, and the action by them to recover the property does not prescribe."

However, in the case of *Alzona v. Capunitan*,²⁰ the Court stated an apparently contradictory rule: "However, the imprescriptibility of an action for reconveyance based on implied or constructive trust is now settled—it prescribes in ten years."

The same rule was followed in the *J.M. Tuason & Co. v. Magdangal*²¹ case which was cited in the *Alzona* case.

Annulment of new titles based on fraud is not petition for review under Section 38 which prescribes in one year.

In the case of *Aring v. Original*,²² Aring contended that the court which took cognizance of the case acted without jurisdiction. The Supreme Court held that the nature of the action in the previous case was one for annulment of the title falsely obtained by appellants; it is not a petition for review of the decision of the Director of Lands. It appeared that a patent was issued by the Director of Lands covering Lot 162 in the name of the heirs of Obot. When Obot died, appellant Aring, upon the claim that they were the only heirs of the deceased, were able to obtain another title in their name to the prejudice of appellee Original who was then in Japan.

It was for the purpose of annulling this title that Original brought Civil Case No. 765. The Court said that "his action cannot be said to be in the nature of a petition for review under Section

¹⁹ G.R. No. L-12313-12314, July 31, 1959.

²⁰ G.R. No. L-10228, February 28, 1962.

In this case, the Court relied heavily on the *Bonaga v. Soler* (G.R. No. L-15717, June 30, 1961) decision which merely stated: "The subsequent registration of those lands covered by the sale . . . allegedly in the exclusive name of appellee Soler gave rise to an action for reconveyance based on trust. Assuming that this case is one of constructive trust, and under the theory that actions to recover property held in constructive trust would prescribe, there is here no showing as to when the alleged fraud was discovered."

²¹ G.R. No. L-15539, January 30, 1962.

²² G.R. No. L-18464, December 29, 1962.

38, of Act 496, which prescribes after one year from the issuance of the decree. Rather, it is an action for annulment of the new title issued to appellants on the ground of fraud."

Fraud which justifies review of decree must be actual and extrinsic.

Section 38 provides that the decree of registration shall not be opened by reason of the absence, infancy, or other disability of any person affected thereby, nor by any proceeding in any court for reversing judgment or decrees. This principle is however made subject to the exception on fraud.

In the case of *Frias v. Esquivel*,²³ the Supreme Court found occasion to reiterate the rule that to justify the setting aside or review of a decree of registration under Section 38, the party seeking relief must allege and prove that the registration was procured through fraud—actual and intrinsic.

In this case, after due notice and hearing, the Court adjudicated the land in favor of the applicants in a registration proceeding. The decision became final and executory and the decree was issued. Within the one year period allowed by law, there was a petition to set aside said decree on the ground of fraud committed. In denying the petition, the Court said:

It has been held in this connection that if the fraud alleged in the petition to set aside the decree is involved in the same proceedings in which the party seeking relief had ample opportunity to assert his right, to attack the document presented by the applicant for registration, and to cross-examine the witnesses who testified relative thereto, then the fraud relied upon is intrinsic. The fraud is extrinsic if it was employed to deprive a party of his day in court, thus preventing him from asserting his right to the property registered in the name of the applicant.²⁴

Who is innocent purchaser for value?

Section 38 expressly provides that even if the registration of a land has been procured through fraud, the decree of registration cannot be opened after the property has been transferred to an innocent purchaser for value.

The Supreme Court found two occasions to define an "innocent purchaser for value"²⁵ by saying what it is not. In *C.N. Hodges v. Dy Buncio & Co.*,²⁶ the Court held: "If a purchaser of land is

²³ G.R. No. L-17366, July 31, 1962.

²⁴ The court here relied on the previous case of *Bagaboyboy v. Director of Lands*, 47 OG 1956.

²⁵ This includes an innocent lessee, mortgagee or other encumbrance for value.

²⁶ G.R. No. L-16096, October 30, 1962.

placed in a situation where there are certain facts which require him to delve deeper into the owner's acquisition of said land, he cannot claim to be an innocent purchaser for value."

In *J.M. Tuason & Co. v. Macalindong*,²⁷ the defendant-appellant claimed the rights of an innocent purchaser for value. The Court, however, said that when the defendant-appellant bought the land in 1954, said land was already registered in the name of the plaintiff-appellee, whose title could be traced as far back as 1914. Thus, the defendant was charged with presumptive knowledge of said Torrens title which is notice to the whole world. He was further charged with actual knowledge from the warning of the City Assessor that "there was question" on said land when the defendant tried to declare the property. He was also sufficiently warned from the fact that the lot, subject of his purchase, was described to be a portion of an unnumbered and therefore unapproved subdivision plan. All these, said the Court, should have led the defendant to investigate before buying the land and before building his house on it. As he did not make the necessary investigation, he is not an innocent purchaser for value as contemplated in Section 38.

CERTIFICATE OF TITLE

The certificate of title is issued by the register of deeds of the province where the land lies in pursuant to the decree of registration. There are two types of certificate: the *original*, which is issued in the name of the original applicant for registration, and the *transfer* certificate of title which is given to any subsequent transferee. A mortgagee's duplicate may also be issued.²⁸

Issuance of certificate renders title non-prescriptible.

Section 46 of the Land Registration Act provides: "No title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession." This the rule of indefeasibility of title.

This rule was clarified in the case of *Alzona v. Capunitan*²⁹ (facts under "Reconveyance"). The Supreme Court stressed that "the protection given by the law is in favor of registered owners." It ruled that heirs who are nephews and nieces are not "the continuation of the personality of their decedents"³⁰ and could not there-

²⁷ G.R. No. L-15398, December 29, 1962.

²⁸ VENTURA, p. 176.

²⁹ *Supra*.

³⁰ In *Eugenio v. Perdido*, G.R. No. L-7083, May 19, 1955, and in *Guinoo v. Court of Appeals*, G.R. No. L-55541, June 25, 1955, the Supreme Court held that the heirs were the "continuation of the personality of their decedents." However,

fore invoke the principle of indefeasibility of title as they were not registered owners.

In the leading case of *J.M. Tuason & Co. v. Macalindong*,³¹ the Court also ruled that the "right of the appellee to file an action to recover possession based on its Torrens title is imprescriptible and not barred under the doctrine of laches."³²

Here, the plaintiff corporation held a Torrens title (based on an original Torrens title dated 1914) covering a tract of land (Tatalon estate). It brought action against the defendant to vacate the premises and to remove his house and other constructions therefrom. The defendant claimed that he and his predecessors-in-interest had been in open, adverse, public, continuous and actual possession of the lot in the concept of owner since 1893.

In deciding for the plaintiff, the Court held that the plaintiff holds a Torrens title and hence claim of possession by the defendant cannot defeat the efficacy of said title. The Court said: "We are in accord with appellant's contention that Act 496 is not intended to shield fraud and that registration thereunder merely confirms title but does not vest any where there is none, because registration under the Torrens system is not a mode of acquiring ownership. We are not, however, justified to apply these principles to the facts of the case and partially annul appellee's Torrens title, which . . . is traceable to an original certificate of title issued way back in 1914, or over 46 years ago, and which is now incontrovertible and conclusive against the whole world."

In *Yu v. De Lara*,³³ the Court also held that "a registered land is not considered abandoned and becomes *res nullius* within the within the meaning of Article 555, par. 1 of the New Civil Code, simply because the owner has not been in possession thereof and tolerated others to possess it."

Certificate relieves the land from all claims except those noted thereon.

Registration under the Torrens system has a purging effect. Section 39 of Act No. 496 provides: "Every person receiving a certifi-

there is no parity of these cases to the Alzona case because the plaintiffs in the previous cases were children of the registered owners.

³¹ *Supra*.

³² Article 348, Civil Code; *Francisco v. Cruz*, 43 OG 5105.

The Court here also held that the appellants' "failure to raise the issue of laches in the trial court amounts to waiver of such defenses (Section 10, Rule 9, Rules of Court; *Maxilom v. Tabotabo*, 9 Phil. 390; *Domingo v. Osorio*, 7 Phil. 409).

³³ G.R. No. L-16084, November 30, 1962.

cate of title in pursuant of a decree of registration, and every subsequent purchaser of registered land who takes a certificate of title for value in good faith shall hold the same free of all incumbrances except those noted on said certificate . . . and any of the following incumbrances"

Extent of titles does not cover roads and highways.

In defining the scope and efficacy of Torrens titles, Section 39 establishes certain exceptions, among them "any public highway, way, private way established by law . . . where the certificate of title does not state that the boundaries of such . . . have not been determined." This principle was again the basis of the holding in *Hodges v. City of Iloilo*.³⁴ The Court held:

Properties dedicated to public use, such as streets and public plazas, are beyond the commerce of man and are not susceptible of registration in the name of any branch of the State or municipality. If a municipality or any other branch of the State may not register a public street or plaza dedicated to public use, *a fortiori* a private individual may not validly accomplish such registration.³⁵

The rule that streets are not deemed registered was however qualified in *Navera v. Quicho* ³⁶ in which the Court held that "the rule that a person who obtains a title which includes by mistake a land which cannot be legally registered (such as a street) does not by virtue of such inclusion become the owner of the land erroneously included therein, holds true only if there is no dispute that the portion to be excluded is really part of a public highway or if there is unanimity as to the issue of fact involved." ³⁷

Accretion to registered land not automatically registered.

The registration of land places it under the operation of the Torrens system. Section 45, Act No. 496, provides: "The obtaining of a decree of registration and the entry of a certificate of title is regarded as an agreement running with the land, and binding upon the applicant and all successors in interest that the land shall be and always remain registered land, and subject to the provisions of this Act and all acts amendatory thereof."³⁸

While this basic principle is clear, it has not always been clear what is included in the registration. The case of *Grande v. Court*

³⁴ G.R. No. L-17575, June 30, 1962.

³⁵ See also: *Vda. de Tantoco v. Municipal Council of Iloilo*, 49 Phil. 52; *Director of Lands v. Bishop of Zamboanga*, 61 Phil. 645; and *Nicolas v. Jose*, 6 Phil. 589.

³⁶ G.R. No. L-18339, June 29, 1962.

³⁷ See *Ledesma v. Municipality of Iloilo*, 49 Phil. 769.

³⁸ VENTURA, p. 177; Section 45, Act No. 496.

of Appeals³⁹ set the rule on alluvial deposit added to registered land's area by accretion. The Court held that the petitioners are owners of the alluvial property, they being registered owners of the adjoining land.⁴⁰ But, "the increment never became registered property and hence is not entitled or subject to the protection of imprescriptibility enjoyed by registered property."

AMENDMENTS AND CANCELLATIONS

Section 112 of Act 496 provides that no erasure, alteration, or amendment may be made upon the registration book after the entry of a certificate of title, or of a memorandum thereon and the attestation of the same by the register of deeds, except by order of the court. However, it allows any registered owner or other person in interest to file a motion in the court asking that the certificate of title or the memorandum thereon be corrected, modified or amended on certain specific grounds.

Termination of marriage is ground for issuance of new certificate.

Among the specified grounds to justify amendment is change of name or status of a person mentioned in the certificate. In the case of *Mata de Stuart v. Yatco*,⁴¹ the Supreme Court reversed the lower court's decision which expressed the opinion that the case was not one contemplated in Section 112, because the petition in effect called for a declaration that the property in question is a paraphernal property of the petitioner. The Supreme Court ruled that the petition was "for a mere amendment of title which is allowed by petition to the Court upon the ground that . . . the registered owner has been married, or if registered as married, that the marriage has been terminated."

Streets erroneously registered may be segregated.

Another ground for amendment is error or omission made in the certificate of title or any memorandum thereon. Following this rule in *Navera v. Quicho*,⁴² the Supreme Court held that "if a portion to be segregated was *really* erroneously included in the title issued to a private person because it is part of a municipal street, that portion may be excluded under Section 112, Act No. 496, because under Section 39, any public highway, even if not noted on a title, is deemed excluded therefrom as a legal lien or encumbrance." It went

³⁹ G.R. No. L-17652, June 30, 1962.

⁴⁰ Article 457, New Civil Code, provides: "To the owners of lands adjoining the banks of rivers belong the accretion which they gradually receive from the effects of the current of the waters."

⁴¹ G.R. No. L-16467, April 27, 1962.

⁴² *Supra*.

on, however, to qualify this rule thus: The rule holds true only if there is no dispute that the portion to be excluded is really part of a public highway or if there is unanimity as to the issue of fact involved.

*Contract of sale should be annulled before cancellation of certificate.*⁴³

In the case of *Cunanan v. Antepasada*,⁴⁴ a transfer certificate of title was issued to Cunanan after buying a piece of land. Subsequently, heirs of the vendor signed a document ratifying the deed of sale to correct the area of the land sold. They, however, later sought to invalidate the ratification on grounds of fraud and misrepresentation and demanded rentals for the use of the land allegedly not embraced in the sale. The action to cancel the certificate of title of Cunanan did not prosper. The Supreme Court ruled that before a transfer certificate of title may be cancelled the contract of sale by virtue of which it was issued must first be annulled.

Remedy provided for in Section 112 is summary; unanimity of parties required.

The authority of the court to authorize amendments and alterations is governed by Section 112. It is a well-settled rule that the relief afforded by said section may only be allowed if there is unanimity among the parties⁴⁵ or there is no adverse claim or serious objection from any party in interest. Otherwise, the case becomes controversial and must be threshed out in an ordinary case.

This rule was applied in the case of *Navera v. Quicho*.⁴⁶ Here, the Municipality of Ligao filed a petition under Section 112 of Act No. 496, for the correction of a transfer certificate of title issued in the name of Navera, on the ground that a portion of 123 square meters was erroneously included in said title during the cadastral survey. The Court held that "the Land Registration or cadastral court has jurisdiction to segregate a street from a certificate of title under Section 112, Act 496, only if there is unanimity among

⁴³The general rule is that when a piece of registered land is sold by the owner to another, and in the deed of sale as well as in the transfer certificate of title a contiguous portion belonging to the vendor is mistakenly included and such fact is known to the vendee, an action would lie in favor of the vendor to correct the deed of sale and the certificate of title, provided, however, that the property has not been transferred to an innocent purchaser for value (*Ong-Quingco v. Imas*, 27 Phil. 314).

⁴⁴G.R. No. L-16169, August 31, 1962.

In this case, the annulment of the contract of sale was not possible, however, because the action, brought after 11 years, had prescribed.

⁴⁵"Unanimity among parties" has been defined as the absence of serious controversy between the parties in interest as to the title of the party seeking relief under Section 112 (*Enriquez v. Atienza*, G.R. No. L-19986, March 29, 1957).

⁴⁶*Supra*.

the parties as to the facts involved. But where the registered owner claims ownership over the alleged street, the controversy is taken out of Section 112 and the court has no jurisdiction to take cognizance of the controversy. The case should be filed in the ordinary courts."

In the case of *Abella v. Rodriguez*,⁴⁷ a petition was filed for cancellation of an original title and for issuance of a new transfer certificate of title. The Supreme Court denied the petition, saying: "The rule is well-settled that, while under Section 112, any registered owner of land or other person in interest may, on certain grounds, apply by petition to the cadastral court for a new certificate or entry or cancellation of a memorandum thereon, such relief can only be granted if there is no adverse claim or serious objection on the part of any party in interest, otherwise, the case becomes controversial and should be threshed out in an ordinary case or in the case where the incident property belongs."⁴⁸

The reason for this ruling is in the nature of the remedy granted in Section 112—it is summary and therefore not adequate for the litigation of issues pertaining to an ordinary civil action.⁴⁹ The facts revealed that while the petition was for a mere cancellation, the record showed that the ownership of the land was actually under controversy. This serious question cannot be disposed of summarily by the Court of First Instance in the exercise of its special and limited jurisdiction.

Legality of foreclosure or effect of lack of notice may not be settled in summary manner.

In the case of *Puyat & Sons v. Philippine National Bank*,⁵⁰ Puyat petitioned under Section 112 asking for the reannotation in the subsequently issued certificate of title of the sale made in its favor. The sale was originally annotated in the cancelled transfer certificate of title registered in the name of Santos. Puyat, judgment creditor of Santos, acquired the registered land at public auction. No redemption having been made, a certificate of sale was issued to Puyat, which was registered in August, 1957, and was annotated at the back of the transfer certificate.

The same certificate however showed that the property was already subject to registered mortgage in favor of the Philippine Na-

⁴⁷ G.R. No. L-17889, December 29, 1962.

⁴⁸ See *Jimenez v. de Castro*, 40 O.G. No. 3, 1st Supp., p. 8; *Tanganan v. Republic*, G.R. No. L-5545, December 29, 1953.

⁴⁹ See *Miraflor v. Leano*, G.R. No. L-60, July 13, 1953; *Castillo v. Ramos*, 45 O.G. p. 17.

⁵⁰ G.R. No. L-16843, April 30, 1962.

tional Bank as of March, 1946. The Bank foreclosed the mortgage extrajudicially, acquired the land in public auction, and obtained a certificate of sale which was registered in December, 1957. The certificate of title in Santos' name was then cancelled and a transfer certificate of title was issued in the Bank's name. The new certificate did not carry the junior encumbrance in favor of Puyat.

The question now was: Did the Registrar of Deeds have authority to omit without any specific court order to transfer or carry over the annotation of Puyat's junior lien appearing in the cancelled certificate of title, to the new title issued to the first mortgagee by reason of the consolidation of the latter's right to foreclose?

The Court said that it is already a well-settled rule that upon a proper foreclosure of the first mortgage, all liens subordinate to the mortgage are likewise foreclosed, and the purchaser at public auction held pursuant thereto acquired title free from the subordinate liens.⁵¹ Ordinarily, therefore, and unless representation is duly presented at the time of the cancellation of the certificate of title by reason of the foreclosure of the superior mortgage lien that irregularities attended the foreclosure, such as lack of notice or non-inclusion or inferior lien holders in the foreclosure suit or proceedings, the registrar of deeds is authorized to issue the new titles without carrying over the annotation of the subordinate liens.⁵²

Earlier registration prevails.

Opposition to application for registration of land is often based on priority of right in the property. According to the Spanish Mortgage Law (which applies if the land was originally registered under the Spanish system of registration, and both the applicant and the oppositor rely on Spanish grants), the title which was first registered should prevail.⁵³ Otherwise, the governing law is the New Civil Code, Article 1544.⁵⁴

⁵¹ See *El Hogar Filipino v. Philippine National Bank*, 64 Phil. 582; *Capistrano v. Philippine National Bank*, G.R. No. L-9628, August 30, 1957; *Bank of the Philippine Islands v. Noblejas*, G.R. No. L-12128, March 31, 1958.

⁵² This did not prejudice the right, if any, of petitioner Puyat to question, in an appropriate ordinary action, the legality of the foreclosure proceedings or the effect of the alleged lack of notice to it of such foreclosure, the Court said.

⁵³ *Lopez v. Abelarde*, 36 Phil. 563; *VENTURA*, p. 135.

⁵⁴ Article 1544, New Civil Code, provides: "If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, if it should be movable property.

Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.

Should there be no inscription, the ownership shall pertain to the person who in good faith was first in possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith."

The Court applied Article 1544 of the New Civil Code in *Beatriz v. Cederia*.⁵⁵ It held: "In an act for partition of a parcel of land, where plaintiff's claim of co-ownership is based on a deed of sale which was registered earlier than the deed upon which defendant based his claim of absolute ownership, plaintiff's claim shall prevail over that of defendant in the light of Article 1544 of the New Civil Code."

NEW CERTIFICATE

Publication not required in issuance of new certificate.

A duplicate certificate which is lost or destroyed may either be replaced by a new one under Section 109 of Act No. 496, or reconstituted under Rep. Act No. 26.

In *Gocheco v. Estacio*,⁵⁶ the Court pointed out a basic difference in the proceedings under the two laws. The duplicate of an original certificate was lost and an heir, Gocheco, petitioned for a duplicate to be issued by the register of deeds. Estacio, et al., opposed the petition claiming that they had been in continuous, peaceful and lawful, public and adverse possession of the property covered by said certificate.

The trial court granted the oppositor's motion to dismiss the petition because of lack of the required 30-day publication of notice as required by Rep. Act No. 26. Reversing this, the Supreme Court ruled: "In view of the existence of complete records in the Register of Deeds, Zamboanga del Sur, of the original certificate of title in question, which appears in Book No. 1-5 of said Register of Deeds, and the fact that the present petition is not one of reconstitution under R.A. 26, there is no necessity for publishing notice thereof." This was in fact an application for the entry of a new certificate in lieu of the one lost and the pertinent law is Section 109, Act No. 496, as amended.

The Court also held that in this proceedings, the oppositors, who had not even filed their brief, had no personality to intervene and their grounds for opposing the petition were immaterial, impertinent and of no consequence in the present proceeding. Their claim of ownership or possession of the property can be properly constituted in a separate and ordinary civil action.

⁵⁵ G.R. No. L-17703, February 28, 1962.

⁵⁶ G.R. No. L-15183, October 30, 1962.

SUBSEQUENT REGISTRATION

Registration is operative act to convey and affect land.

Section 50 of Act No. 496 provides that no deed, mortgage, lease or other voluntary instrument, except a will, purporting to convey or affect a registered land, shall take effect as a conveyance, or bind the land, but shall operate only as a contract between the parties and as evidence of authority of the register of deeds to register the same. The act of registration is the operative act to convey and affect the land.

The non-registration of the deed of sale of land does not, therefore, render it void.⁵⁷ It only means that the transaction would not affect the rights of third persons who act in good faith.

Non-registration of sale is also not evidence of possession in bad faith.⁵⁸ This was the ruling in *Rodriguez v. Francisco*.⁵⁹

In the case of *Agbulos v. Alberto*,⁶⁰ the main issue of whether redemption was made in time depended upon the question: When was the sale deemed to have been made? Judgment creditor Agbulos was the highest bidder in the execution sale of debtor's land. The sale was registered and annotated at the back of the transfer certificate of title. The date of the instrument of sale was July 8, 1959; redemption was made on June 23, 1960.

Section 26 of Rule 39, Rules of Court, provides that "the judgment debtor or redemptioner may redeem the property from the purchaser at any time within 12 months *after the sale*" without specifying whether the period should start from (1) the date when the execution sale was made, or (2) the date when the certificate of sale was executed by the sheriff, or (3) the date when the certificate of sale was registered in the office of the Register of Deeds.

The Court in the above case held that redemption was in time, counting the running of the period from the date of registration of the sale. The Court said: "The property involved is registered land. It is the law in this jurisdiction that when property brought under the operation of the Land Registration Act is sold, the operative act is the registration of the deed of conveyance. The deed of sale does not take effect as a conveyance, or bind the land until it is registered."⁶¹

⁵⁷ See *Buzon v. Licauco*, 13 Phil. 364; *Bambalan v. Maramba*, 26 O.G. 3563; *Government of P.I. v. Abelarde* (Court of Appeals), IV Lawyers' Journal 287.

⁵⁸ *Rodriguez v. Francisco*, G.R. No. L-13343, December 29, 1962.

⁵⁹ G.R. No. L-13343, December 29, 1962.

⁶⁰ G.R. No. L-17483, July 31, 1962.

⁶¹ See *Tuason v. Raymundo*, 28 Phil. 635; *Sikatuna v. Guevara*, 43 Phil. 371; *Worcester v. Ocampo*, 34 Phil. 646; *Garcia v. Ocampo*, G.R. No. L-13029, June 30, 1959; *Gonzales v. Philippine National Bank*, 48 Phil. 824.

REGISTER OF DEEDS

The laws governing the functions of the register of deeds under the Torrens system are: The Land Registration Law, the Cadastral Law, and the Public Land Law. In addition to these are the Rules for the Uniform Administration of the Registries of Deeds, as amended, the Administrative Code (Sections 193, 193[a], 195), and Republic Act No. 1151.⁶²

Duty of the Register of Deeds is ministerial and mandatory.

Section 56 of Act No. 496 provides: "Each registrar of deeds shall keep an entry book in which, upon payment of the filing fee, he shall enter in the order of their reception all deeds and other voluntary instruments, and all copies of writs or other process filed with him relating to registered lands"

In the case of *Dulay v. Herrera*,⁶³ a petition for mandamus to compel the register of deeds to receive and register a document was filed. Dulay's heirs executed an "Extrajudicial settlement with absolute sale" of his estate, signed by his two daughters and his widow, alleging that they were the only legitimate surviving heirs. The registrar refused to receive and register the document, saying it was not registrable. The issue then was whether or not the registrar had neglected in the performance of a duty enjoined by law and/or unlawfully excluded the petitioner from the use and enjoyment of a right to which she is entitled.

The Court held that the instrument sought to be registered is a voluntary one, relating to a registered land. "The phraseology of the provision makes the duties imposed therein purely ministerial. The Registrar of Deeds cannot refuse to accept and inscribe the document under consideration. His refusal is a proper instance where mandamus will lie, for it is tantamount to an unlawful neglect in the performance of a duty resulting from an office, trust or station (Section 3 of the Rules of Court).

⁶² VENTURA, p. 268.

⁶³ G.R. No. L-17084, August 30, 1962.

In this case, the Court also stated: "We have once said . . . 'the duties enjoined upon the Register of Deeds by Section 57, Land Registration Act, are clearly ministerial and mandatory in character not only as is indicated by the auxiliary "shall" but by the nature of such functions to be performed by him. Upon the other hand, Section 193 of the Administrative Code, in referring to the general functions of the register of deeds, provides that it is the duty of the register of deeds to record in proper form all instruments relative to such lands, the recording whereof shall be required or allowed by law. If the Register of Deeds is in doubt as to the propriety of recording any given instrument, Section 200 of the Administrative Code provides the procedure to be followed (In re: Consulta by Atty. Vicente J. Francisco on behalf of Domingo Cabantog, 67 Phil. 222).'"

Registrar authorized to issue new titles without annotating subordinate liens.

In the case of *Puyat & Sons v. Philippine National Bank*⁶⁴ (facts under "Amendments and Cancellations"), the issue was: Did the Registrar of Deeds have authority to omit without any specific court order to transfer or carry over the annotation of Puyat's junior lien appearing in the cancelled certificate of title to the new title issued to the first mortgagee by reason of the consolidation of the latter's right to foreclose? Answering in the affirmative, the Supreme Court said: "The registrar of deeds is authorized to issue the new titles without carrying over the annotation of the subordinate liens."

FEES

The registrar of deeds does not proceed with the registration of the deed or instrument unless certain requisites are accomplished. One of these requisites is the payment of certain fees.

Merger of property is conveyance subject to payment of registration fees.

In *Luzon Stevedoring Corporation v. Land Registration Commissioner*,⁶⁵ two corporations entered into a merger agreement. The question was whether the absorption or acquisition by the Visayan Stevedoring Corporation of the assets or property of the other corporation is a transfer or conveyance contemplated by Rep. Act No. 928 subject to payment of registration fees. The Court held: "The absorption or acquisition by one corporation of the assets or property of another, pursuant to the merger agreement . . . , is a transfer or conveyance contemplated by R.A. 928 subject to payment of registration fees, under paragraphs C-16 and C-17, Section 114 of Act 496, as amend by R.A. 117 and 928. The contention that the "transfer or conveyance contemplated in paragraph C-16 of R.A. 928 is that in which a consideration is an essential requisite for its efficacy" is without merit. Not the consideration of a transfer or conveyance of property but the service to be rendered by the register of deeds is the reason for the requirement of the payment of fees."

Liquidation is in nature of transfer or conveyance.

In *Stockholders of F. Guanzon & Sons v. Register of Deeds of Manila*,⁶⁶ the assets of the dissolved corporation included real pro-

⁶⁴ *Supra*.

⁶⁵ G.R. No. L-15680, May 30, 1962.

⁶⁶ G.R. No. L-18216, October 30, 1962.

perties. The Registrar of Deeds denied registration of the certificate on several grounds, three of which were upheld as proper grounds for the denial of registration by the Commissioner of Land Registration: (1) number of parcels of real properties not certified in the acknowledgment; (2) registration fees must be paid first; (3) documentary stamp must be affixed to the certificate of liquidation.

The propriety or impropriety of these grounds for denial of registration of the certificate of liquidation was predicated on whether or not the certificate merely involves a distribution of the corporation assets or whether it should be considered a transfer or conveyance. In declaring the grounds valid, the Court held:

"A corporation is a juridical person distinct from members composing it. Properties registered in the name of the corporation are owned by it as an entity separate and distinct from its members. A stockholder is not a co-owner or tenant in common of the corporate property. It is clear that the act of liquidation made by the stockholders . . . of the assets is not and cannot be considered a partition of community property, but rather a transfer or conveyance of the title of its assets to the individual stockholder. The purpose of liquidation and distribution is the transfer of title from corporation to stockholders in proportion to their shareholding. This being the case, the transfer cannot be effected without the corresponding deed of conveyance from the corporation to the stockholders. It is, therefore, fair and logical to consider the certificate of liquidation as one in the nature of a transfer or conveyance."

CADASTRAL SYSTEM

The cadastral system is a slight modification of the Torrens system. It is a proceeding instituted by the Director of Lands by order of the President of the Philippines when in his opinion the public interest requires that the titles to the lands in a certain municipality be settled and adjudicated.⁶⁷

Under Act No. 496, the owner of the land who desires to place his property under the operation of the Torrens system commences the registration proceedings. Hence, it is called *voluntary registration*. On the other hand, a cadastral proceeding which is commenced by the order of the President to survey the lands in a municipality is called *compulsory registration*.

Cadastral proceedings is judicial and in rem.

In the case of *Nieto v. Quimes*,⁶⁸ the Court stated: "The proceedings under the Cadastral Act, at the initiative of the govern-

⁶⁷ VENTURA, p. 226. Government of P.I. v. Abural, 39 Phil. 996.

⁶⁸ G.R. No. L-14643, September 29, 1962.

ment are judicial. The action is one *in rem* and any decision rendered therein by the cadastral court is binding against the whole world including the government."

Analyzing the steps in a cadastral proceeding, the Court further said that after trial in a cadastral case, three actions are taken. The first adjudicates ownership in favor of one of the claimants. This constitutes the decision, the judgment or the decree of the court, and speaks in a judicial manner. The second action is the declaration by the court that the decree is final and it orders for the issuance of the certificate of title by the chief of the Land Registration Office. Such order is made if within 30 days from the date of receipt of a copy of the decision no appeal is taken from the decision. This again is judicial action, although to a less degree than the first. The third and last action devolves upon the General Land Registration Office, which has been instituted for the effectuation and accomplishment of the laws relative to the registration of the land.

Registration under cadastral system is final and conclusive.

On the effect of registration under the cadastral system, the Court also said in the Nieto case that as a general rule the registration is "final, conclusive, and indisputable, after the passage of 30 days period allowed for an appeal from the judgment of the court adjudicating ownership without any step having been taken to perfect an appeal. The prevailing party may then have execution of the judgment as of right and is entitled to the certificate of title issued by the Chief of the Land Registration Office. The exception is the special provision for fraud."⁶⁹

Decree of registration vests title in cadastral proceedings.

Section 11 of the Cadastral Act provides that "all conflicting interests shall be adjusted by the court and decrees awarded in favor of the persons entitled to the lands or the various parts thereof, and such decrees, when final, shall be the final basis for original certificates of title in favor of said persons which shall have the same effect as certificates of title granted on application for registration of land under the Land Registration Act."

This provision was applied by the Court in the case of *De la Merced v. Court of Appeals*⁷⁰ in settling the question of when title to land is vested in cadastral proceedings. It appears that Santos' title to a lot was confirmed by virtue of the final decision in a ca-

⁶⁹ *Ibid.*

⁷⁰ G.R. No. L-17757, May 30, 1962.

dastral case. The decision was declared final two years later in December, 1925, and the court directed the chief of the General Land Registration Office to issue the certificate of title to Santos. However, no such certificate was actually issued.

In December, 1926, the same Cadastral Court declared the same lot public land without reopening the case. After due application, De la Merced obtained a homestead patent for said lot and an original certificate of title was issued to him in 1931. De la Merced then sued Santos for recovery of ownership and possession of said lot.

The question now was: Did Santos obtain title to said lot although no certificate was issued? The Court decided that he did obtain title, saying: "The title of ownership on the land is vested . . . upon the expiration of the period to appeal from the decision or adjudication by the cadastral court, without such appeal having been perfected." Citing its decision in a previous case, the Court further stated: "In a cadastral proceedings, after the decision adjudicating ownership to the property had become final, there being no imputation of irregularity . . . , title of ownership on said property was vested as of the date of such judicial decree. The land, for all intents and purposes, had become, from that time, registered property which could not be acquired by adverse possession. The certificate of title is only necessary for purposes of effecting registration of subsequent disposition of land where court proceedings would no longer be necessary."⁷¹

Title obtain under cadastral system prevails over one obtained under the Public Land Law.

The case of *Nieto v. Quines*⁷² gave rise to the peculiar situation where a lot was registered in the names of two different persons on the same day pursuant to two different proceedings. The question wherefore was not who is rightfully entitled to registration of the property, but rather, which of the two registrations already effected and secured should prevail.

In 1917, Quines filed with the Bureau of Lands a homestead application covering a tract of land in Abulog, Cagayan. The application was approved and a homestead patent was issued on August 29, 1930. Pursuant to the patent, an original certificate of title was issued to Quines on September 15, 1930.

Meanwhile, in 1923, cadastral surveys were made in Abulog. In the cadastral proceedings, Florentino (predecessor-in-interest of

⁷¹ See *Government of the Philippine Islands v. Abural*, 39 Phil. 997.

⁷² *Supra*.

appellant Nieto) was awarded certain lots, including the piece of land which was the subject of Quines' homestead application. Neither Quines (who relied on assurances made by employees of the Bureau of Lands that they would take care of his homestead in the cadastral proceedings) nor the Director of Lands or his representatives appeared during the cadastral hearing to inform the court that said land was under homestead application. Florentino was awarded said land on August 16, 1930. Thirty days after, or on September 15, the decision of the Cadastral Court became final and the land was registered in Florentino's name.⁷³

Thus, it appears that on September 15, 1930, title to the same land was vested to both Quines (under Act No. 926 or the Public Land Law) and Florentino (under the Cadastral Law). The question now was: Whose title prevails?

In deciding for Florentino's title, the Supreme Court looked into the nature and manner of acquisition under the two laws. Under Act No. 926, the Director of Lands, upon receipt of a homestead application, shall summarily determine whether the land described is *prima facie* subject to homestead settlement, and should he find nothing to the contrary, the applicant shall be permitted to enter the land specified (Section 2). In not less than five nor more than eight years from the date of the filing of the application, final proof of residence and cultivation may be made by the applicant, of which the public shall be notified and any person may contest the same on any of the grounds enumerated in the law (Section 8). Should the applicant successfully prove that he has complied with all the requirements of the law, a patent, under the same of the Government, shall be issued to the applicant, upon payment of fee (Section 3). The procedure therefore is purely administrative.

On the other hand, the proceedings under the Cadastral Act, at the initiative of the Government (Section 1, Act No. 2259), are judicial The action is one *in rem* and any decision rendered therein by the cadastral court is binding against the whole world (Section 11) including the government.

The decision of the cadastral court recognizing Florentino's right of ownership over the land was rendered on August 16. There being no charge, much less proof, of irregularity of the cadastral proceedings, the Government (which is supposed to have knowledge of it) had actually no more right to convey by homestead grant on August 29 said parcel of land to Quines. The fact that the decision

⁷³ Cf. Section 26, Act 2347; VENTURA, p. 149.

of the cadastral court decision became final only on September 15, after the patent was issued does not alter the situation that when such patent was obtained, there was already a court adjudication in favor of Florentino, binding upon the government itself.

"Furthermore," the Court said, "a certificate of title based on a patent, even after the expiration of one year from the issuance thereof, is still subject to certain conditions and restrictions On the other hand, a certificate of title issued pursuant to Act 1259, after the lapse of one year, becomes incontrovertible." The Court concluded that "with the due registration and issuance of a certificate of title over a land acquired pursuant to the Public Land Law, said property becomes registered in contemplation of Act 496. However, in view of its nature and manner of acquisition, such certificate of title, when in conflict with one obtained on the same date through judicial proceeding must give way to the latter."

PUBLIC LAND LAW

The Public Land Act governs the administration and disposition of alienable public lands.⁷⁴ Under Section 122⁷⁵ of the Land Registration Law provision is made for the registration of such public land which are alienated, granted, or conveyed to persons or public or private corporations. While the Land Registration Act provides for a judicial registration of title to land, Section 122 constitutes an exception thereto because it provides for the registration in the register of deeds, without judicial intervention, of grants or conveyances of public lands made by the government, and also provides that the register of deeds should issue certificates of title to the grantees. The procedure for registration here is purely administrative in character. Hence, the act (not the decree as in judicial registration) of registration is the operative act to convey and affect the lands.

Disposition of public land is lodged exclusively in Director of Lands.

Sections 3-5 of the Public Land Law provides that the Director of Lands, acting under the immediate control of the Secretary of Agriculture and Natural Resources, is charged with the survey, classification and disposition of the lands of the public domain.

⁷⁴ VENTURA, p. 243.

⁷⁵ Section 122, Act No. 496, provides: "Whenever public lands in the Philippine Islands belonging to the Government of the United States or to the Government of the Philippine Islands are alienated, granted, or conveyed to persons or public or private corporations, the same shall be brought forthwith under the operation of this Act and shall become registered lands . . ."

Relative to the management and disposition of said lands, his decision on questions of fact is conclusive when approved by the Secretary of Agriculture and Natural Resources.⁷⁶

Applying this principle in *Pindangan Agricultural Co. v. Dans*,⁷⁷ the Court ruled: "The disposition of public lands, is lodged exclusively in the Director of Lands, subject only to the control of the Secretary of Agriculture and Natural Resources . . . [T]he courts have no power to review, reverse, or modify his decision, as approved by the Secretary."

In the case of *Sarnillo v. Ortiz*,⁷⁸ the Court in effect skirted the question of the right to certiorari against the order of the Undersecretary regarding public land. It held: "The question involving the right of certain persons to intervene in a petition for certiorari against the Undersecretary of Agriculture who ordered the cancellation of a sale of public land becomes moot and need not be passed when the order of cancellation has been reversed on appeal to the President.

Sales patent is issued after cultivation and improvement.

In *Pugeda v. Trias*,⁷⁹ the Court clarified the procedure in the acquisition of sales patent to public lands. "A person who desires to acquire a public land by a sales patent must first apply for a parcel of land. Thereafter, the land is open for bidding. If the land is awarded to an applicant or to a qualified bidder, the successful bidder is given a right of entry to occupy the land and cultivate and improve it (Sections 22-28, C.A. 141). It is only after satisfying the requirements of cultivation and improvement of one-fifth of the land that the applicant is given a sales patent (Section 30)."

⁷⁶ *Gonzales v. Director of Lands*, 20 O.G. 2942.

⁷⁷ G.R. No. L-14591, April 25, 1962.

⁷⁸ G.R. No. L-16953, August 31, 1962.

⁷⁹ G.R. No. L-16925, March 31, 1962.