REGISTRATION UNDER THE TORRENS SYSTEM

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INTRODUCTION

In this brief survey of recent cases and legislation touching on the law of registration, we shall follow the general scheme of the Torrens system of registration of titles and deeds as embodied in the basic laws of registration, which is the Land Registration Act No. 496, and the ancilliary laws, which are the Public Land Law[1] and the Cadastral Law.[2]

PART I — ORIGINAL REGISTRATION

I. JUDICIAL PROCEEDINGS.

A. *Ordinary Registration Proceeding (Voluntary).*

1. Applicants under Act No. 496.

On the basis of possessing the so-called *registrable title*, there are two categories of applicants under Section 19 of Act No. 496, namely: (1) The person or persons claiming singly or collectively, to own the legal estate in fee simple; and (2) the person or persons claiming, simply or collectively, to own or hold any land under a possessory information title acquired under the provisions of the Mortgage Law of the Philippines and general regulations for the execution of the same. Under the first group are those who have *titulo real* (royal grant), *composicion con el Estado* (adjustment title), *titulo de propiedad* (title of ownership) issued by the Central government in the Philippines during the Spanish regime to any one who purchased a disposable agricultural public land, and *composicion gratuita* (gratuitous title) issued under the Royal Decree of February 13, 1894. Such title constitutes evidence of absolute ownership (the nearest equivalent of *fee simple title*). Under the second group are those who obtained *inscripcion de posecion* or *titulo de informacion posesoria* (possessory in-

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[1] Com. Act No. 141 (1936).

[2] Act No. 2259 (1913).

formation title) under the Spanish Mortgage Law after its promulgation in the Philippines on December 1, 1889. Such "possessory title," which is in fact only a cord of possession, constitutes *prima facie* evidence of ownership.[3] In this connection, it must be remembered that under the Spanish land laws, no person could acquire title to alienable public lands (crown lands) in the Philippines by adverse possession alone, however long such possession might have extended without any action on the matter by competent authority.[4] The same principle, known as the regalian doctrine, was reiterated in the case of *Oh Cho v. Director of Lands*, in which the Supreme Court held:

> "All lands that were not acquired from the government, either by purchase or by grant, belong to the public domain. An exception to the rule would be any land that should have been in the possession of an occupant and of his predecessors in interest since time immemorial, for such possession would justify the presumption that the land had never been part of the public domain or that it has been a private property even before the Spanish conquest."[5]

2. Applicants under Section 47 and 48, Com. Act. No. 141. —

Those who have acquired *imperfect* or *incomplete title to agricultural public lands* under the Public Land Law, may apply for the confirmation and registration of the same under the Land Registration Law. Section 47 of the Public Land Law provides that the applicants must be Filipino citizens. Section 48 of the same law as amended, which specifies the requisites for the so-called imperfect title, reads:

> (a) Those who, prior to the transfer of sovereignty from Spain to the United States have applied for the purchase, composition or other form of grant of lands of the public domain under the laws and royal decrees then in force and have instituted and prosecuted the proceedings in connection therewith, but have, with or without default upon their part, or for any other cause, not received title therefor, if such applicants or grantees and their heirs have occupied and cultivated said lands continuously since the filing of their applications.
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> (b) Those who by themselves or through their predecessors in interest have been in continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a *bona fide* claim of acquisition of ownership, for at least thirty years immediately preceding the filing of the application for confirmation of title, except when prevented by war or *force majeure*. These shall be conclusively presumed to have performed all the

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[3] Inchausti & Co. v. Commanding General 6, Phil. 556 (1906).
[4] Valenton v. Murciano, 3 Phil. 537 (1904)
[5] 75 Phil. 890 (1946).

conditions essential to a government grant and shall be entitled to a certificate of title under the provisions of this chapter.[6]

(c) Members of the national cultural minorities who by themselves or their predecessors in interest have been in open, continuous, exclusive and notorious possession and occupation of lands of the public domain suitable to agriculture, whether disposable or not, under a *bona fide* claim of ownership for at least 30 years shall be entitled to the rights granted in sub-section (b) hereof.[7]

It will be observed that the period within which to avail of the benefits granted by section 48 of the Public Land Law was extended to December 31, 1968 by Republic Act No. 2061. Said paragraph (b) of the law, before its amendment by Republic Act No. 1942, provided that an applicant for judicial confirmation of his imperfect title should prove possession since before July 26, 1894 up to the filing of the application. In view of the difficulty of obtaining witnesses who could testify to facts occurring over sixty years ago, it was found necessary to amend the above-mentioned paragraph of the law by requiring the applicant to prove possession of at least 30 years immediately preceding the filing of the application. It is also important to note that before the law was amended, the possession of the property since July 26, 1894 up to the taking effect of the Public Land Law on November 7, 1936, ripened, by operation of law, into imperfect title in the claimant. On the other hand, under the law as amended, the so-called imperfect title does not vest in the occupant unless the application for confirmation is filed.

With reference to paragraph (c) added to said section 48 of the law by Republic Act No. 3872, we have our serious doubts as to its constitutionality, because it sets apart the so-called "cultural minorities" as the only class or group of Filipino citizens who may be entitled to the benefits of paragraph (b) of the said law regardless of the fact that the land claimed by the applicant is disposable or *non-disposable*. Thus, the amendment of the law is unjustly discriminatory against members of the "cultural majorities" who cannot acquire imperfect title to *non-disposable* lands of the public domain.

Inasmuch as Republic Act No. 2061, which amends section 47 of the Public Land Law, makes reference to section 48 of said law and not to a particular paragraph thereof, we believe that the extension of time granted therein covers also those mentioned in said new paragraph (c) of section 48.

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[6] As amended by Rep. Act No. 1942 (1957).
[7] Added by Rep. Act No. 3872 (1964).

3. Filing of Application. —

With respect to applicants claiming fee simple title or absolute ownership and possessory information title, they should file their application in accordance with sec. 20 and 21 of the Land Registration Law.[8] Those who claim to have acquired imperfect title to agricultural public lands should file their application in accordance with sec. 50 and 52 of the Public Land Law.[9]

4. Review of Decree of Registration. —

Under section 38 of Act No. 496, the decree of registration may be reviewed on the ground of actual or extrinsic fraud within a period of one year from the entry and issuance of the decree of registration, or final decree.[10] The other ground for review of the decree is *lack of due process*. Such principle was enunciated in the case of Cuaycong vs. Sengbengco.[11] The facts of the case are: The Court of Negros Occidental adjudicated Lot 903 to Cristeta Sengbengco and the heirs of Clayton Nichols in this proportion, to wit: ½ thereof to the former and the other ½ to the latter. The Original Certificate of Title was issued on December 12, 1935. On September 8, 1936, the heirs of Rafael Baliba, who had filed their answer in 1923, claiming said Lot 903, filed a motion for reconsideration of the judgment and asked for new trial on the ground that they had not been notified of the hearing of said lot. There was no proof of fraud on the part of the Clerk of Court for this failure to notify the heirs of Baliba of the hearing nor was there proof that the adjudicatees were responsible for fraud in obtaining the decree. In deciding the question whether the said heirs were entitled to a review of the decree, the Supreme Court held: "Now, then if a decree issued in pursuance of a valid decision, obtained by fraud, may be annulled within one year from entry of said decree, there is more reason to hold that the same, if entered in compliance with a decision suffering from a fatal infirmity, for want of due process, may be reviewed, set aside and cancelled upon petition filed within the same period, provided no innocent purchaser for value will be injured thereby."

B. *Cadastral Proceedings (Compulsory).*

1. Under the Cadastral Law,[12] the claimants of the cadastral lots within the entire territory of a given municipality must have

[8] Act No. 496 (1902).
[9] *Supra*, see note 1.
[10] Bagaboyboy v. Director of Lands, 37 O.G. 1959. (Aug., 1939).
[11] Cuaycong v. Sengbengco, G.R. No. 11837, Nov. 29, 1960.
[12] *Supra*, see note 2.

the qualifications required of applicants under section 19 of the Land Registration Law and section 48, as amended, of the Public Land Law.

2. Procedure. — The owners of the cadastral lots should file their answers or claims in accordance with sections 9 and 11 of the Cadastral Law.

3. Special Compulsory Proceeding (akin to Cadastral Proceeding). — Under section 53 of the Public Land Law, when the titles to lots in a certain area are open to doubt, or the boundaries of the same are open to discussion, the Director of Lands may file a petition in the Court, praying that the titles thereto be settled and adjudicated to the owners thereof.

4. Reopening of Judicial Proceedings. — Under Rep. Act No. 931, any person claiming ownership of a cadastral lot, which was the subject of a cadastral proceeding, who for some justifiable reason had been unable to file his claim in the Court during the reglamentary period, may, in case such lot was declared public land on account of such failure to file his answer, file a petition for a reopening of the judicial proceedings so that he can prove that he has a registrable title to the property. His petition shall be granted provided that he can show that at the time of the cadastral survey, he was occupying the property; that the same was declared public land within 40 years prior to the approval of Republic Act No. 931 in 1958, and that the same has not been disposed of by the Government either by lease or absolute grant. Under Republic Act No. 2061, payment of real estate taxes shall not be a condition precedent to the filing of said petition. The benefits of the law must be availed of not later than December 31, 1968.

a. Scope of *"justifiable reason."*

As to the scope of the phrase "justifiable reason" which may be the basis of a petition for reopening of judicial proceedings under Republic Act No. 931, our highest tribunal had occasion to explain the same in the case of *Balong Calse v. Yadno.*[18] In said case, an Igorot filed a petition for reopening of the judicial proceedings incident to the Baguio townsite reservation case in which his lot had been declared public land on account of his failure to file his claim within the time limit established by law. During the hearing, the petitioner admitted that he knew that there was a reservation proceeding but he said that he did not know it was

[18]G.R. No. 19652, December 29, 1964.

necessary for him to file an answer. In view thereof, the trial Court dismissed his petition. On appeal to the Supreme Court, the issue presented was whether the petitioner had "justifiable reason" for his failure to file his claim in the reservation proceeding. The Court held: "Such phrase (referring to *justifiable reason*) is too broad as to include other matters that may be deemed legally or *factually justifiable,* such as poverty, lack of notice, sickness, and the like. Petitioner could have advanced any of these reasons if given the opportunity to do so..." (Underlining ours)

b. Republication of notices under Rep. Act No. 931, when required. —

In the case of *Director of Lands v. Emilia Benitez,*[14] the question raised for determination was whether there was necessity of republication of notices before a petition for reopening of judicial proceedings may be granted. In said case, the facts may be stated briefly as follows: Emilia Benitez and Eulalio Brillo were declared owners of a parcel of land for which an original certificate of title was issued in their names. Twenty-six years after said adjudication, they filed a petition before the same Court for reopening of the proceedings under Rep. Act No. 931, claiming additional portion which allegedly was not included in their original title. The Court granted the petition. After due hearing, a decision was rendered in their favor and as soon as the same became final, they asked for the execution of the judgment. The motion was opposed by those who were occupying the said additional portion, by virtue of permits issued by the Director of Lands. The Solicitor-General filed a motion to set aside the judgment on the ground that the Court did not acquire jurisdiction to hear and decide the case for lack of the required publication of notices.

The oppositions, as well as the motion to set aside judgment, were denied. On appeal, the Solicitor-General raised the same issue. The Supreme Court held: "The petitioners have the right to file a petition for reopening of judicial proceedings under Rep. Act No. 931, but it is necessary that notice thereof be given to those persons who claim an adverse interest in the land sought to be registered, as well as the general public, by publishing such notice in the Official Gazette, in a conspicuous place on the new land to be surveyed, as well as in the Municipal Building of the city or municipality in which the land is situated, as required in section 1 of Cadastral Act No. 2259."

[14] G.R. No. 21368, March 31, 1966.

C. *Issuance of Original Certificate of Title and Writ of Possession; Effect.* —

In a cadastral case, a lot was adjudicated to Julio Baltazar and his wife. In due time, the original certificate of title was issued in their names. The defeated oppositors transferred the property to third persons who constructed their houses on the said lot. In the meantime, Baltazar died. On motion of the surviving wife and children, in the cadastral case, a writ of possession was issued against the respondents successors in interest of the defeated oppositors with an order to demolish the houses built on the lot. The respondents argued that they are builders in good faith and that the Court of First Instance has no jurisdiction to order the demolition of the improvements on the lot which were erected in place of the old ones. The Supreme Court held: That the Court of First Instance, sitting as a Land Registration Court, has the power to order, as a consequence of the writ of possession, the demolition of the buildings on the lot; and that replacing an old house with a new one cannot enervate the right of a registered owner, otherwise the right of the latter to enjoy full possession of his registered property could be defeated by an unsuccessful opponent through the subterfuge of replacing his old house with a new one from time to time.[15]

D. *Possession of Registered Land by Government cannot ripen into prescriptive title.* —

In the case of *Digran v. Auditor-General,*[16] it appears that Ruperta Gabucos purchased a registered land, which was a part of the Frias Lands Estate in Cebu and was given a TCT for the lot. In 1914, the government constructed a road through the said lot without expropriating it and without paying for it. The heirs of Gabucos filed their claims for payment with the Government, but no action was taken on it until the War broke out. After liberation, an action was filed for the same purpose against the Auditor-General and the officials concerned. The defense set up was that the heirs lost their right to demand payment by reason of laches or prescription. The issue is whether the heirs of Gabucos lost their right to compensation by reason of prescription. The Supreme Court held: The Government cannot take private property for public use without compensation, nor can it acquire ownership thereof by prescription in derogation of the registered owner.

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[15] Baltazar v. Caridad, G.R. No. 23509, June 26, 1966.
[16] Digran v. Auditor General, G.R. No. 21593, April 29, 1966.

II. ADMINISTRATIVE PROCEEDING.

A. *Disposition of agricultural public lands under the Public Land Law.*

1. Effect of Prior Award of public land to an applicant on patent issued subsequently to another. — In the case of *Director of Lands v. Court of Appeals*[17] the facts are: On November 12, 1926, Benito Tolentino filed a sales application for a piece of public land with the Bureau of Lands. In the bidding that followed, the property was awarded to him on February 15, 1928. Later, it was discovered that a part of the land awarded to him was subsequently granted to Braulio Cosme on March 22, 1949 by way of a homestead patent, upon which a certificate of title was issued in his name. So the Bureau of Lands filed an action for the cancellation of said title. The issue is whether the Bureau of Lands can dispose of a land in favor of an applicant after it was awarded to a sales applicant. The Supreme Court held: "Although prior to the issuance of a patent and its registration, the government retains the title to the land, said award conferred upon Tolentino the right to the possession of the land so that he could comply with requirements prescribed by the law before said patent could be issued in his favor. He cannot be deprived of such right without due process, such right having the effect of withdrawing the land awarded to him from the mass of the public domain classified as 'disposable' by the Director of Lands." Therefore, the certificate of title was ordered cancelled.

PART II — SUBSEQUENT REGISTRATION

I. CANCELLATION OF ENCUMBRANCE ON CERTIFICATE OF TITLE. —

In the case of *Angel Olaes vs. Teodoro Tanda,*[18] it appears that after the death of Vicente Tanda and his wife Marcela Reyes, their son Teodoro Tanda caused the transfer of the property left by his parents to himself by virtue of an affidavit of adjudication, alleging that he was the sole heir of his parents. Then he sold the same under a contract of pacto-de-retro to Narcisa Aldaya. When the period for repurchase expired, Aldaya, the vendee-a-retro, consolidated his right of ownership, and sold the property to Angel Olaes. In the meantime, Teodoro Tanda filed an action against Aldaya for the nullification of the pacto-de-rectro sale, alleging fraud in the execution of said contract. The lower court

[17] Director of Lands v. Court of Appeals, G.R. No. 17696, May 19, 1966.
[18] Olaes v. Tanda, G.R. No. 21919, May 19, 1966.

found no deceit in the sale and sustained the same. In the title issued to Teodoro Tanda, there is the usual notation that the property is subject to "the right of any legal heirs or claim of any creditor of the deceased spouses Vicente Tanda and Marcela Reyes should there be any within two years as provided by law." This notation was carried on the transfer certificate of title issued to the buyer Olaes. Hence, his petition for cancellation of said notation of lien, including the notice of *lis pendens* made at the request of Teodoro Tanda who filed action for nullification. Since the said period of two years appearing in the notation on the title had long expired and the judgment on the action for nullification had long become final, the court granted the petition for cancellation. The issue is whether the said notations can be ordered cancelled. The Supreme Court held: In view of the fact that 18 years have elapsed since Tanda adjudicated unto himself the property in question without any claim or administration proceeding being instituted, there is no reason why the said notation cannot be cancelled and the co-heirs of Tanda, who oppose the petition, are barred from questioning the sale to Olaes.

II. SUBSEQUENT REGISTRATION; EFFECT OF ACTUAL KNOWLEDGE OF TAX SALE OF REGISTERED LAND. —

In the case of *Carvajal v. Coronado*,[19] it appears that Januario Coronado was the owner of a parcel of land in Manila covered by Transfer Certificate of Title (TCT) No. 22035. For failure to pay the taxes on said property, a part thereof was sold at public sale by the City Treasurer and was sold to one Carvajal, who took possession of the same after the sale. The heirs did not redeem the property. However, they executed and caused the cancellation of said TCT No. 22035 and the issuance of TCT No. 35535 in their names. One of them died, and in the extra-judicial partition between the remaining heirs another title No. 54035 was issued in their names, but they knew that said title includes the portion sold to Carvajal who is now the plaintiff. But it must be noted that Carvajal did not register the treasurer's certificate of sale. It may be the purpose of Carvajal not to spur the owner of the land to action, that is, to redeem the property. On the other hand, the heirs knew that Carvajal was the purchaser of the portion sold at public sale. In that case, the Court said, when the owner of the property sold has actual knowledge of the sale thereof, the purpose of registering the treasurer's certificate of sale is already accomplished. "The property owner cannot lull the

[19] Carvajal v. Coronado, G.R. No. 23250, Nov. 12, 1966.

purchaser of his land — at a tax sale — into false belief that he (purchaser), already in possession is secure in his right as purchaser. He cannot let years go by, and in his own good time elect to reacquire the sold property, to the prejudice of said purchaser." Hence, Carvajal is entitled to the property he purchased because the heirs knew all along that he was the purchaser and yet they did not redeem it.