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Should the motion be granted? Why?

Legal basis: A decree of registration may only be reopened on the ground of actual fraud and nothing else

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#### 1980

Question:

In whose favor would you decide: the defrauded HH and II or the usurpr JJ who invoked the lapse of more than one year from the decree of title?

Legal basis: If a property is acquired by fraud or mistake, the person who acquired shall become a trustee for the benefit of the defrauded person.

Legal basis: A right of action that accrue from a written contract prescribes after 10 years.

#### 1981

Question:

May the Court of First Instance, sitting as a land registration Court, continue to take cognizance of the case and resolve the issue posed? Explain.

Legal basis: Petition to compel surrender of duplicate CoT, cancel or issue new title

Legal basis: Section 108 only involves correction of clerical errors. Controversial issues must be ventilated in an ordinary civil action

When can relief to correct clerical errors on married persons be granted?

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Legal basis: Writ of possession applies to all adversely occupying the land

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An obligor/debtor shall be released from his obligation when the object becomes legally impossible

Buyer in good faith: laches

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Is C bound to deliver to Z the portion sold to the latter by X, and to Y the part embraced in Y's title?

Legal basis: A new Certificate of Title issued without presentation and cancellation of the owner's duplicate CoT confers no right to the purchaser

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Question:

Is B's posture valid? Explain.

Legal basis: Registration of the deed is the only operative act that will bind third persons

Without registration, what is the effect of a deed?

Question:

What right of action, if any, does A have and against whom? Explain

Legal basis: The decree of registration becomes incontrovertible after the lapse of the period of one year from the date of issuance

Legal basis: If such property has already passed to innocent purchasers for value, the only remedy is action for damages against the person who acted with fraud or negligence. IPV's right must be protected.

Legal basis: A person deprived of his property may file an action against the RoD, National Treasurer/Assurance Fund for the mistake done by the personnel of RoD

1985

Forged deed as a root of title

Question:

Who has a better right to the aforementioned parcels of land, A, Y, or the judgment creditor? Discuss

Legal basis: A forged deed cannot be a source of a valid title even if accompanied by the owner's duplicate certificate

Legal basis: A forged deed can be a source of a valid title if it remained in the forger's name and was transferred to an innocent purchaser for value

Ministerial duty of the Register of deeds to register

Question

Rule on the legality of the register of deeds' refusal to register.

Legal basis: Registration is a mere ministerial act which must be performed when documents are complied with

Legal basis: Purpose of registration is to notify all persons, and does not validate or invalidate an instrument

1989

Question:

May such additional area be acquired by third persons thru prescription? Give your reasons

Question:

Legal basis: Who may apply for original registration proceedings

Question:

Does “B” have a valid title over the land? If “B” sells the property to “C”, does the latter acquire a valid title over it?

Legal basis: The rights of an innocent purchaser for value must be respected and protected

1990

Question:

Is the said appeal meritorious?

(a) Torrens Title indefeasible after one year.

(b) F is guilty of laches.

What is laches?

Suppose the government agency concerned joined C, would that change the result of the litigation?

1991

Forged Deed

Legal basis: A forged deed can never be a root of a valid title

1992

Question: What are the essential requisites or elements for the allowance of the reopening or review of a decree of registration?

1993

Remedies; Judicial Confirmation; Imperfect Title

Legal basis: In a judicial confirmation of imperfect title, the judge will render judgment based on the evidence presented

1994

Question: How do you now register a deed of mortgage of a parcel of land originally registered under the Spanish Mortgage Law?

Legal basis: The system of registration under the Spanish Mortgage Law is discontinued and all lands not covered by Torrens Title shall be unregistered lands.

Legal basis: All instruments affecting such lands under the Spanish Mortgage Law shall be registered under this until the land is registered under Torrens System.

Question: Distinguish the Torrens system of land registration from the system of recording of evidence of title.

1995

Notice of Lis Pendens

May the court cancel the notice of lis pendens even before final judgment is rendered? Explain.

What is the purpose of lis pendens?

Legal basis: When lis pendens may be cancelled

Two grounds upon which an annotation of lis pendens may be cancelled

1996

Judicial Reconstitution of Title

If you were the judge, how would you decide the petition of the heirs of Gavino to reconstitute lost Title? Explain.

Legal basis: Judicial reconstitution of lost or destroyed titles shall be done in accordance with RA 26 and its purpose is only restoring the certificate back.

There must be no material change in the reconstitution of title. Otherwise, what should be done:

1997

Given the circumstances, can the (a) action of the Solicitor General prosper?

Legal basis: The certificate of title shall become incontrovertible after the period of one year from the issuance thereof.

Prescription cannot be invoked against the State

Legal basis: An action where the RP is a real party in interest shall be instituted by the OSG

What is extrinsic fraud?

Given the circumstances, can the (b) action of Percival prosper?

How many years does an action for reconveyance on the ground of alleged fraud prescribe? + Legal Basis

Legal basis: If the plaintiff is in possession of the land to be reconveyed, action for reconveyance is not proper for such action partakes of the nature of quieting of title.

1998

Legal basis: An adverse claim over the land shall indeed be effective for a period of thirty days but a subsequent formal cancellation is still necessary to render it ineffective.

Legal basis: Alterations on the memorandums on the certificate of title shall only be made by the RoD upon the order of the proper RTC.

1999

Homestead Patents; Void Sale (1999)

Mirror Principle; Forgery; Innocent Purchaser (1999)

2000

Legal basis: Free patents are mode of concessions only applicable to agricultural lands not foreshore land

When can a free patent be issued?

2001

(B) Actions of the government to annul titles do not prescribe and is not barred by a subsequent transfer to an innocent purchaser for value if:

Legal basis: Filipino Citizens may not acquire alienable agricultural lands more than 12 hectares either by purchase, homestead or grant.

Legal basis: False statements in the application for public land titles shall cancel the concession

2001

Lis Pendens: When proper

Legal basis: If the action is for recovery of money judgment or action in personam, the notice of lis pendens is improper. There is no "notice of litigation" when there is no litigation in the first place.

What are the grounds where an annotation of a lis pendens is proper?

2002

Notice of Lis Pendens; Transferee Pendente Lite

What is transferee pendente lite? + Legal basis

What is the purpose of notice of lis pendens?

How can a co-owner protect his rights when other co-owners sold their property?

Legal basis: Right to legal redemption by the co-owner

Torrens System – Indefeasibility of Title

A. Define or explain the term laches (2%)

B. Decide the case, stating your reasons for your decision. (3%)

2003

Land Registration

Legal basis: Foreigners/Non-Filipinos are not allowed to acquire title to private lands

Land Transfer and Reconveyance Based on Decree of Registration

Question:

A. Is the action pursued by Louie the proper remedy?

Case: If defendant is insolvent, plaintiff may file against the Assurance Fund.

B. Assuming that re-conveyance is the proper remedy, will the action prosper if the case was filed beyond one year, but within ten years from the entry of the decree of registration? (2003 Bar Question)

Legal basis: Action for reconveyance prescribes in 10 years if the defendant is in possession, but never prescribes if the plaintiff is in possession.

2004

Question:

Who has a better right over the parcel of land, RR or PP? Why? Explain the legal basis for your answer.

Legal basis: A deed of sale is only a contract between parties if not registered. If registered, binds the whole world.

Did Rod acquire title to the land? Explain.

Discuss the rights of Don, if any, over the property.

2006

Question:

If you were the counsel, what action would you take to protect the interests of your clients?

What are the grounds where an annotation of a lis pendens is proper?

2007

Governing laws on land acquisition: Non-registrable properties

Question:

1. What is the governing law and other pertinent laws relating to land registration and acquisition of land in the Philippines?

What law governs judicial reconstitution of lost or destroyed certificate of title?

What law governs administrative reconstitution of lost or destroyed certificate of title?

2. What properties are not registrable?

2008

Accretion, Alluvium(page 85 Agc)

Question A: If Jessica's and Jenny's properties are registered, will the benefit of such registration extend to the increased area of their properties? (2%)

Legal basis: The natural along river banks belong to the riparian owners.

Question A:

Can they validly lay claim to the patch of land? (2%) (2008 BAR)

Legal basis: s on lands gontiguous to lakes by sediments from the waters belong to the owner of such lands.

Registration

Question:

What is the meaning of registration?

Was Dehlma a purchaser in good faith? (2%)

Who as between Dehlma and XYZ Bank has a better right to the house and lot? (2%)

2009

Question:

What action or actions will you institute in order to vindicate the rights of the Spouses over their property fraudulently sold by their trustee Attorney? Explain fully.

Legal basis: File against the Assurance Fund where the National Treasurer as the defendant when the plaintiff is deprived of property arising from fraud, mistake, negligence, misfeasance of RoD, its employees, court personnel, deputy, or other persons.

Question

Decide the case with reasons.

Legal basis: If a land is invalidly transferred to an alien who then becomes a Filipino citizen, or then transfers the land to a Filipino citizen, the original flaw is cured and the transfer is valid.

Accretion

Question

Who is the owner of the alluvium? The occupant Ulpiano or the registered owner of the adjacent lot Marciano?

Legal basis: Accretion must be registered to belong to the riparian owner. Otherwise, it may be acquired by third persons.

2010

Question

For an action to quiet title or remove cloud to prosper, two requisites:

Question:

When can a trustor-plaintiff file an action for reconveyance against his trustee of title if 10 years has already passed from the registration of the deed?

2012

Prescription, Judicially Foreclosed Real Property Mortgage

Does the right to request for the issuance of a writ of possession over a foreclosed real property prescribe in five years?

2013

QUESTION:

A.) What are the laws that you need to consider in advising Manuel on how he can perfect his title and register the land in his name? Explain the relevance of these laws to your projected course of action.

B.) What do you have to prove to secure Manuel's objectives and what documentation is necessary?

2014

Question:

(A) If you are the judge, will you grant the application for land registration of Cornelio?

Legal basis: Applicant or PII must be in an OCEN possession of A & D land since June 12, 1945 or earlier for at least 20 years

Legal basis: Section 14(1) of PD 1529's interpretation is that the land applied for must be A&D at the time of application for registration, and not necessarily since June 12, 1945 or earlier.

(B) Can Cornelio acquire agricultural land through acquisitive prescription, whether ordinary or extraordinary?

Legal basis: Only patrimonial lands can be subject to prescription

How can a land become patrimonial?

Legal basis: Only lands that are private in character (e.g. patrimonial lands) are susceptible to acquisitive prescription. There must be an express State declaration that an A&D land is no longer needed for public service, use, or for national wealth. 2 kinds of acquisitive prescription, years before it transpires, and where prescription does not apply

2015

Question

Is such a stipulation valid? (2%)

Legal basis: After filing an application for registration, applicants may still subject, stipulate or undertake the land, in whole or in part, to certain dealings, conveyances, or encumbrances in favor of other persons, so long as it is done before the

\_\_\_\_\_.  
Distinguish a direct attack from a collateral attack on a title. (2%)

If the title in Item XX.A is issued in the names of the original sellers, would a motion filed by Juan in the same case to correct or amend the title in order to reflect his name as owner be considered a collateral attack? (2%)

2016

Question

Legal basis: No title, in derogation of the registered owner's title, can be acquired through prescription or adverse possession.

The right to recover is imprescriptible if owner is registered under Torrens system because \_\_\_\_\_

Laches cannot be setup if there is no unreasonable delay. An example is..

Legal basis: From "possession for 30 years" to "possession of applicant or PII since June 12, 1945 or earlier" to "at least 20 years"

Legal basis: Classification to A&D is a requisite before application for registration, but the counting of the period shall include actual possession even before the classification.

Question

What should reasonably put Alex into question and serve as constructive notice?

Legal basis: The annotation of adverse claim does not ipso facto lose its effectivity after 30 days. An independent action is still necessary.

2017

A.) What are the legal consequences of the 1991 declarations of the Government respecting the lands? Explain your answer. (2%)

Can Mike register his land when the Government declared it as A&D in 1991? + Legal basis

Can Rigor register his land when the Government declared that "it is no longer intended for public use or service"?

B.) Given that, according to Section 48(b) of Commonwealth Act No. 141, in relation to Section 14(1) of Presidential Decree No. 1529, the open, continuous, exclusive, and notorious possession and occupation of alienable and disposable lands of the public domain as basis for judicial confirmation of imperfect title must be from June 12, 1945, or earlier, may Mike nevertheless validly base his assertion of the right of ownership on prescription under the Civil Code? Explain your answer. (4%)

Legal basis: The properties of the State that are not patrimonial in character are not subject to prescription

C.) Does Rigor have legal basis for his application for judicial confirmation of imperfect title based on prescription as defined by the Civil Code given that, like Mike, his open, continuous, exclusive, and notorious possession and occupation was not since June 12, 1945, or earlier, and his tract of land was timber land until the declaration in 1991? Explain your answer. (4%)

Legal basis: Prescription only runs against the State's patrimonial properties

2018

ADVERSE CLAIM

(b) If a legal easement does in fact exist, is an annotation of an adverse claim on the title of the servient estate proper? + Legal basis



Legal basis: Legal easements no need to be annotated as adverse claim  
What is required in the annotation of adverse claim that is not existing in legal easements?

What should the dominant estate (entitled to lateral and subjacent support) do to bind the property, owner, and succ of the elevated estate/servient estate? errors

2019

A.) Will the prayer of O for the return of the subject property prosper? Explain. (3%)

Legal basis: Only the encumbrances noted on the certificate of title shall bind the applicant and every subsequent purchaser of registered land who buys the land in good faith

What are the requirements to be considered as a buy in good faith?

Legal basis: Any person deprived of title or interest in land because of Torrens system without negligence on his part, may bring an action against the Assurance Fund.

1979

Question:

X applied for the registration of a 20-hectare piece of land. During the pendency of the registration proceedings, X sold the land to Y for P100,000.00, its then fair market value, and presented the Deed of Sale to the court and testified therein as to the due execution of the same. The registration court therefore rendered a decision ordering the registration of the land in the name of Y. After said decision became final, the land court, upon motion of X, issued a decree on the basis of which an Original Certificate of Title was issued in the name of Y. Alleging that the title should not have been issued in the name of Y and that there was fraud because Y failed to pay him the price of the sale, X moved for the reconsideration of the decree ten (10) months after the issuance of the title.

Should the motion be granted? Why?

Under Section 32 of PD 1529, a decree of registration may only be reopened or reviewed on the ground of actual fraud, and no other else. Failure to pay purchase price is not a ground to reopen the registration decree. Filing must be done with the RTC within one year from the date of entry of such decree of registration. One cannot complain of fraud if in such person's testimony of due execution the land was registered.

Legal basis: A decree of registration may only be reopened on the ground of actual fraud and nothing else

Section 32 of PD 1529

When should filing to reopen the decree of registration on the ground of fraud be commenced?

Within one year from the date of entry of decree of registration

Question:

OP filed in the Office of the Register of Deeds an Affidavit of Adverse Claim wherein he claims ownership of a parcel of land described in the Title issued in the name of JG. The affidavit states that the sale of the land to JG was void because the latter is a Chinese; that OP has been in actual, continuous, public, exclusive and uninterrupted possession of the lot for more than ten years and that as a matter of fact he had constructed a house thereon; that no one has claimed from his ownership nor possession nor rental for his occupancy and that therefore, he had acquired the land by prescription; and that whatever right the Chinese registered owner had over the property has prescribed.

The Register of Deeds refused to record the adverse claim on the title of JG. Is this refusal correct? Why?

No, the duty of RoD is ministerial in nature with regard to registration of deeds, encumbrances, and instruments. No law confers him judicial or quasi-judicial power to determine the nature of such a document. The question as to the rights of the Chinese should be left with the determination of the courts. - [Standard Oil vs. Jaramillo](#), [Section 10 of PD 1529](#)

He may not validly refuse an instrument presented to him for registration if it validly complied with the form. The purpose of registration is merely to give notice, and questions involving validity are expected to be decided after, not before.

Moreover, prescription or adverse possession [cannot derogate](#) the title of the owner registered under the Torrens System. Neither adverse possession nor prescription can overcome the indefeasibility and imprescriptibility of the Torrens System of title. (Sec. 47 PD 1529)

## 1980

Question:

“HH”, “II”, and “JJ” inherited from their parents a large parcel of land. “HH” and “II” went abroad to reside in Canada. In their absence, “JJ” applied for the registration of the whole land in his name only. In due time, “JJ” obtained a Torrens Title for the land.

When “HH” and “II” returned from Canada after seven years, they found out what “JJ” did and sued him for their respective shares. “JJ” contended that the decree of title can no longer be reviewed or changed because of the lapse of more than one year from its issuance.

In whose favor would you decide: the defrauded HH and II or the usurper JJ who invoked the lapse of more than one year from the decree of title?

HH and II. Under Article 1456 of the NCC, if a property is acquired by fraud or mistake, the person obtaining it, by force of law, becomes a trustee for the benefit of the person from whom

the property comes. Under 1144 of the NCC, the right of action prescribes within 10 years if such right accrues from a written contract.

In this case, the right of action accrued when the Torrens Title was issued to JJ. HH and II commenced their action at the 7th year, which is still within the prescriptive period of 10 years.

Legal basis: If a property is acquired by fraud or mistake, the person who acquired shall become a trustee for the benefit of the defrauded person.

Article 1456 NCC

Legal basis: A right of action that accrue from a written contract prescribes after 10 years.

Article 1144 NCC

## 1981

Question:

In a verified petition filed before the Court of First Instance, sitting as a land registration Court, and under the summary proceeding for amendment or alteration outlined in section 112 of the Land Registration Act, husband “H”, being the registered owner of three parcels of land, sought to strike out the words “married to W” appearing in the said titles, and to place in lieu thereof the word “single” on the ground that the phrase “married to W” was entered by reason of clerical error or oversight. Opposition was filed by “W” who alleged that she is the legal wife of “H”, and that the insertion of the phrase “married to W” was not the result of clerical error but was the voluntary act of “H”.

May the Court of First Instance, sitting as a land registration Court, continue to take cognizance of the case and resolve the issue posed? Explain.

No. Proceedings under Alteration (Sec. 112 of LRA) or under Section 107 (petition to compel surrender of duplicate CoT, cancellation or issuance of new title) and Section 108 are summary in nature. (Cabanez vs. Solano) Under Section 108, the court only hears petition involving clerical errors. Substantial and controversial issues should be ventilated in an ordinary civil action.

Moreover, under Section 108, the court may only grant relief to an owner registered as married if there are no other interests affected. Nothing should be done by the court to impair the interests of the purchaser for value and in good faith, his heirs or assigns.

Legal basis: Petition to compel surrender of duplicate CoT, cancel or issue new title

Section 107

Legal basis: Section 108 only involves correction of clerical errors. Controversial issues must be ventilated in an ordinary civil action

Cabañez vs. Solano

Bryan Villarosa, JD2 | May 2022 | version 1.0

When can relief to correct clerical errors on married persons be granted?

If there are no other interests affected (Sec. 108) such as those of heirs and purchasers for value.

Question:

In a cadastral case, Lot No. 123 was claimed and applied for by spouses "S-T". The cadastral Court adjudicated the lot in their favor, the claim having been uncontested. Three months thereafter, the heirs of "Z" filed a petition for the review of the registration decree alleging that they were the true owners and were in actual legal possession. After hearing, the Court denied the petition for review. No appeal was taken.

Two years later, the spouses "S-T" filed a petition for the issuance of a Writ of Possession in the cadastral proceedings. Opposed by the heirs of "Z", the Court refused to issue the Writ on the ground that the heirs of "Z" were not specifically named as parties in the cadastral case so that said Writ cannot issue as against them.

Are the spouses "S-T" entitled to a Writ of Possession? Explain.

Yes. A Writ of Possession is binding not only against the parties in the cadastral case, but to all who are adversely occupying the land during the proceedings up to the issuance of the decree. (Heirs of Lopez Sr. vs Querubin) Here, the heirs of "Z" were not the adverse party in the cadastral case, but the Writ of Possession applies to them because they are adversely occupying the land.

Legal basis: Writ of possession applies to all adversely occupying the land, not only to the parties of the case

Heirs of Lopez vs. Querubin

1983

Annotations; Classification

A bought a house and lot in a subdivision, subject to the condition annotated on the certificate of title, that they shall be used for residential purposes only. Ten years later, A sold the property to B who converted it into a restaurant. The owner demanded its closure but B refused alleging (1) that although he subsequently came to know the title issued to him bears such an annotation, he was unaware of it at the time of the sale as the seller did not tell him so and the deed of sale in his favor makes no mention of it; (2) that his lot has been re-classified by ordinance as commercial; and (3) that it has in fact become commercial because of its proximity to some stores and a shopping center in an adjoining subdivision.

Rule on the validity of said defenses:

- (1) B's unawareness is invalid. The annotation in the CoT when bought the property from A is a constructive notice not only to him but to the whole world. Hence, even though the seller A made no mention of the condition, he is supposed to know by due diligence through reading the annotation. He is thereby estopped from claiming ignorance of the said stipulation.
- (2) A stipulation in a contract of sale must give way to a legitimate exercise of police power (Silverio vs. IAC). An obligor (person bound to perform) shall be released from his obligation when the prestation becomes legally impossible without his fault. (NCC 1266) In this case, the reclassification of the lot to commercial is a legitimate exercise of police power, thereby, releasing A and B from their obligation to limit the use to residential purposes.
- (3) B's contention that his lot is in proximity to shopping centers is not a legitimate excuse for breach of agreement or contract. The proximity of commercial centers to the subject lot is extraneous and irrelevant to the obligations imposed by the certificate of title.

Legal basis: A stipulation in a contract must give way to a legitimate exercise of police power  
Silverio vs. IAC

An obligor/debtor shall be released from his obligation when the object becomes legally impossible

NCC 1266

Buyer in good faith; laches

Question

In 1930, A sold a piece of land to B and delivered his certificate of title thereto. B occupied the land but did not have A's title cancelled and a new one issued in his name. Upon B's death in 1950, the land passed to his son, C, who continued in possession thereof. In 1970, A's two sons, X and Y, secured the cancellation of the title of their father who had died, and the issuance of two titles, one in X's name, covering 1/2 of the land, and the other in Y's name, embracing the other half. X thereafter sold his part to Z, who was unaware of the antecedents.

Is C bound to deliver to Z the portion sold to the latter by X, and to Y the part embraced in Y's title?

Yes.

1. If, as the facts state, that a "new one is issued in [B's] name" and "A's title was not cancelled", B's new title that was passed to C is void. In PNB vs. Fernandez, the Court ruled that a new CoT issued without presentation and cancellation of the owner's duplicate, is unwarranted and confers no right on the purchaser.
2. Z is a buyer in good faith and for value. He has the right to rely on what was stated in the title of X, his seller. And since such title was neither stamped "cancelled" nor surrendered, he has no obligation to look beyond what is stated in the certificate.

3. C is guilty of laches. From 1930 to 1970, forty years have passed and it is already an unreasonable and unexplainable neglect in enforcing their rights to the land.

Legal basis: A new Certificate of Title issued without presentation and cancellation of the owner's duplicate CoT confers no right to the purchaser

PNB vs. Fernandez

1984

Question:

A had a piece of land which was registered under the Torrens system. He sold it to B, but the sale was not registered. Subsequently, C, a creditor of A, obtained an attachment on the property, which was duly registered with the Registry of Deeds. B thereafter attempted to register the sale in his favor. The Register of Deeds was willing to do so and issue a transfer certificate of title to B, subject however, to the condition that the attachment in favor of C would be inscribed on the new certificate of title. B objected, contending that at the time of the attachment of the property, A was no longer the owner thereof and therefore had no more interest therein which could be attached.

Is B's posture valid? Explain.

No, B's posture is not valid. Under Section 51 of PD 1529, the only operative act by which a deed shall bind third persons, such as C in this case, is if B registered the deed of sale in the Registry of Deeds after he bought it from A. Without such registration, the deed of sale or any voluntary instruments "shall operate only as a contract between the parties and as evidence of authority to the RoD to make registration." Here, C has secured a lien by attachment before the registration by B, the rights acquired by B under the deed of sale shall be subject to the rights of C and cannot be enforced until after the rights of C have been fully satisfied.

Legal basis: Registration of the deed is the only operative act that will bind third persons

Section 51 of PD 1529

Without registration, what is the effect of a deed?

It shall only operate as a contract between the parties and as an evidence of authority to the RoD. However, it shall not be binding as to third persons. (Sec. 51)

Question:

More than one year had elapsed since the issuance of the final decree of registration when A discovered that his land had been fraudulently registered in the name of his caretaker B.

What right of action, if any, does A have and against whom? Explain

A's remedy is action for reconveyance and damages against caretaker B. Under Section 32, after the expiration of such period of one year, the decree of registration and the issued

certificate of title shall become incontrovertible. Any person aggrieved by such decree of registration may still pursue his remedy by either an action for reconveyance or action for damages which are actions in personam. If the property has not yet passed to an innocent purchaser of value, the aggrieved party may still file an action for reconveyance. Otherwise, only action for damages because the rights of the IPFV must be protected and respected, and that the integrity of the Torrens System of Registration must be preserved.

Legal basis: The decree of registration becomes incontrovertible after the lapse of the period of one year from the date of issuance

Sec. 32 of PD 1529

Legal basis: If such property has already passed to innocent purchasers for value, the only remedy is action for damages against the person who acted with fraud or negligence. IPV's right must be protected.

Wee vs. Mardo

Moreover, since the act of registration is a constructive notice against the whole world including A, A must act within 10 years from the date of registration in the name of B because such act of registration is deemed as an act of discovery of fraud by A.

Under Section 96, A may also file an action for damages against the Register of Deeds of the province of the city where the land is situated and against the National Treasurer if the deprivation of his land was due to fraud or mistake of a court personnel, RoD, or other employees of the RoD. Other persons may also be impleaded as defendants if such loss or damage arises from the act of other persons not mentioned.

Legal basis: A person deprived of his property may file an action against the RoD, National Treasurer/Assurance Fund for the mistake done by the personnel of RoD

Section 96

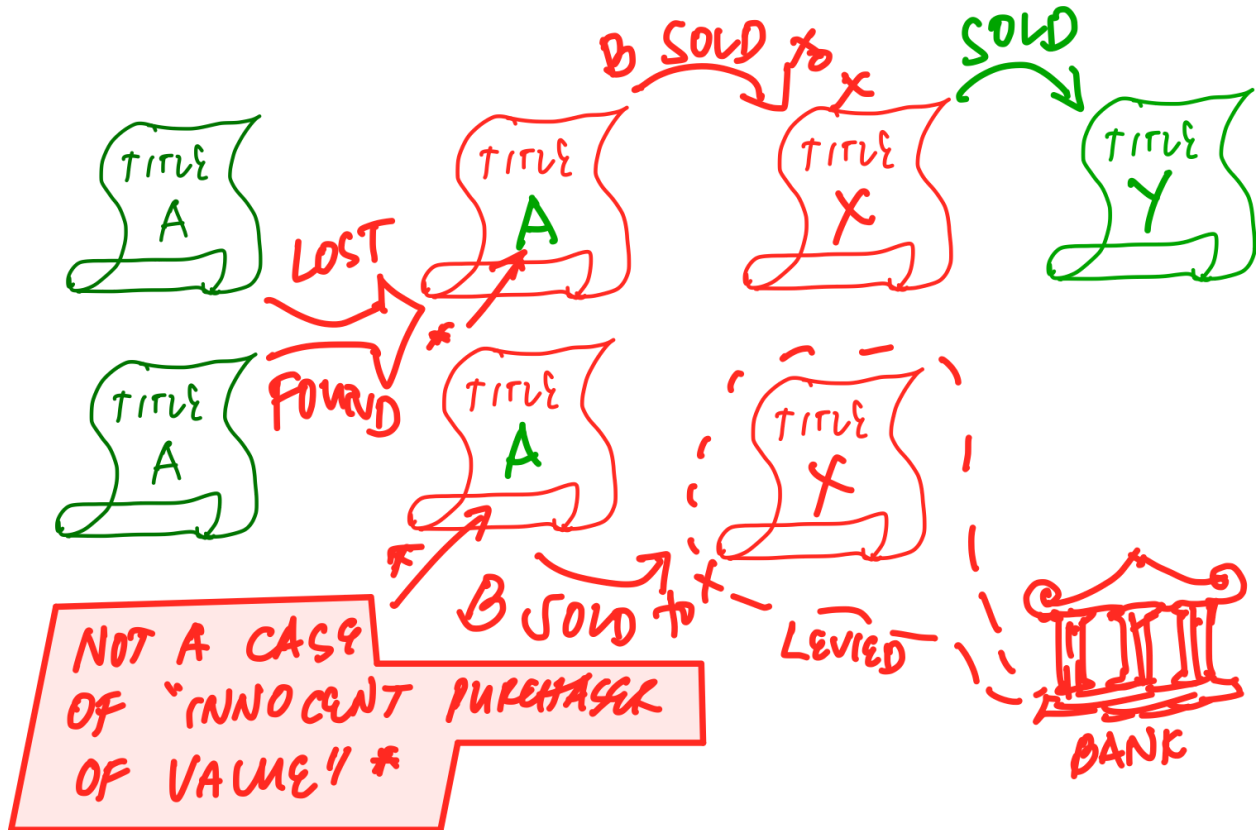
## 1985

### Forged deed as a root of title

Question:

After finding on a bus an envelope containing two Torrens certificates of title in A's name, B posing as A and forging his signature, sold the two parcels of land described in the Titles to X who bought them in good faith and for value and to whom transfer certificates were issued in his name. He then conveyed one parcel to Y, a bonafide purchaser for value, while the other was levied upon to satisfy the judgment against X.

Who has a better right to the aforementioned parcels of land, A, Y, or the judgment creditor? Discuss



A still has a better right for both of the parcels of land.

As a rule, "any subsequent registration procured by a forged duplicate certificate of title or a [forged deed shall be null and void](#)" (Section 53 PD 1529) and cannot be a root of a valid title. When a deed is forged, even if accompanied by the owner's duplicate certificate of title, the registered owner does not lose his title (Bernales vs. Sambaan)

However, it will become one if the certificate of title has been transferred from the true owner to the forger, and while it remained that way, was transferred to an innocent purchaser for value. For then, the vendee has the right to rely on what appeared in the certificate. But this rule is not applicable to victims of impostors pretending to be the registered owners (Joaquin vs. Madrid)

In this case, there is no showing that the certificate of title belonging to A was transferred to the name of B. B was an impostor and only forged the deed without his name in the title. Thereby, all the subsequent transfers are null and void.

A never lost his right and can recover the land from Y and the judgment creditor.

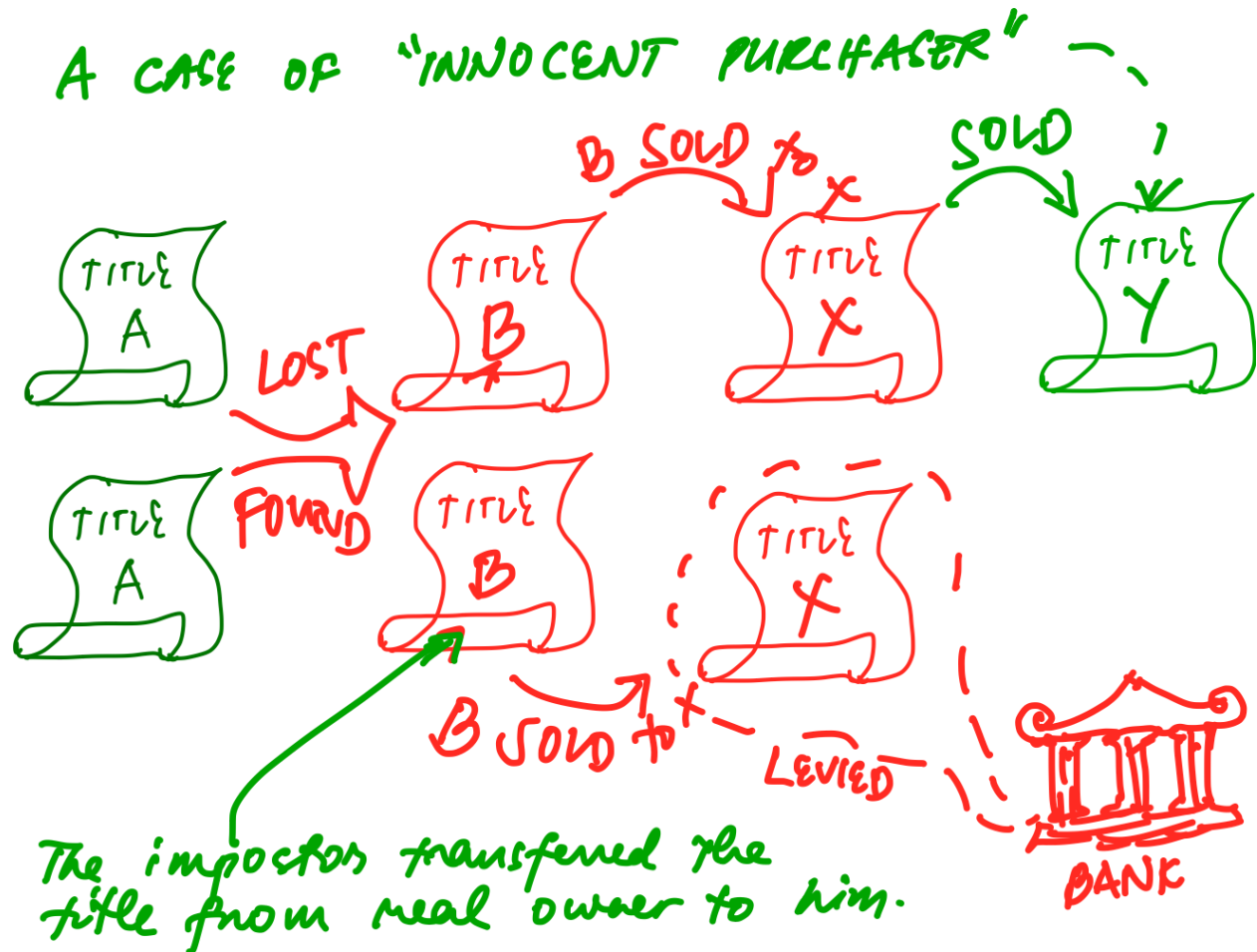


Legal basis: A forged deed cannot be a source of a valid title even if accompanied by the owner's duplicate certificate

Section 53 PD 1529, Bernales vs. Sambaan

Legal basis: A forged deed can be a source of a valid title if it remained in the forger's name and was transferred to an innocent purchaser for value

Joaquin vs. Madrid



Ministerial duty of the Register of deeds to register

Question

The register of deeds refused to record a deed of sale executed in favor of a Filipino woman on the ground that she is an alien because her husband is an alien and although she secured an absolute divorce from him abroad, the divorce is void since our law, which governs her status, does not recognize absolute divorce.

Rule on the legality of the register of deeds' refusal to register.

Registration is a mere ministerial act, hence, it must be performed in any case as long as the documents presented “comply with requisites for registration” or are regular and due in form (Section 10 PD 1529). The public officer has no choice but to perform the specific action and duty imposed by law. The purpose of registration is to notify all persons but does not add validity nor convert an invalid instrument between parties to a valid one and vice versa. (Office of the Ombudsman vs. Manalastas)

In the instant case, the question of the woman’s civil status in lieu of her foreign marriage and divorce, is a matter concerning intrinsic validity which a competent court alone can decide. (Gonzales vs. Basa)

Hence, the RoD is not authorized to determine whether or not the document ought to be valid is intrinsically valid. Such duty belongs to the court of competent jurisdiction to determine. In case of doubt, the RoD should advise the registrant of his right to appeal en consulta to the LRA in accordance with Section 117 of PD 1529.

Legal basis: Registration is a mere ministerial act which must be performed by the Register of Deeds when documents are complied with

Section 10 of PD 1529, Standard Oil vs. Jaramillo

Legal basis: Purpose of registration is to notify all persons, and does not validate or invalidate an instrument

Ombudsman vs. Manalastas

## 1989

Question:

Subsequent to the original registration of a parcel of land bordering a river, its area was increased by accession. This additional area was not included in the technical description appearing on the Torrens Certificate of Title having been acquired to the registration proceedings.

May such additional area be acquired by third persons thru prescription? Give your reasons

No. The Land Registration Law provides that no title in derogation of the registered owner may be acquired by adverse possession or acquisitive possession (Section 47 PD 1529). Since the law refers to registered lands, the accession mentioned in this question may be acquire by a third person through adverse possession or acquisitive possession.

Legal basis: No title to registered land in derogation of the title of the registered owner shall be acquired by prescription or adverse possession

Section 47 PD 1529

Question:

May the owner of a building constructed on an unregistered land belonging to another apply for the registration of such building under the Land Registration Act and PD 1529? What should he do to protect his rights in case the owner of the land applied for registration thereof? Give your reasons.

Under Section 14 of PD 1529, all that the specified persons may apply for registration of title in the proper CFI are all "lands" not buildings. A building cannot be registered independently of the land under LRA and PD 1529.

However the owner of the building and improvements should file a claim or an opposition with the court during the registration proceedings that the fact of his ownership to the building be annotated in the decree of registration and later in the face of the certificate.

Legal basis: Who may apply for original registration proceedings

Section 14 of PD 1529

- (1) Those who by themselves or PII have been in OCEN possession of A&D lands under bona fide claim of ownership (good faith + just title) since June 12, 1945 but now, for at least 20 years (as amended by RA 11273 to at least 20 years last July 16, 2021)
- (2) Acquired private lands by prescription under the provision of existing laws
- (3) by accession or accretion under existing laws
- (4) in any other manner provided for by law

Question:

"A" is the owner of a registered land. The Torrens Title is entrusted to "B", his clerk secretary, who forges "A's" signature on a deed of sale of said land, in his "B's" favor. A new title is issued in the name of "B", upon registration.

Does "B" have a valid title over the land? If "B" sells the property to "C", does the latter acquire a valid title over it?

No, B has no valid title over the land because "any subsequent registration procured by a forged duplicate certificate of title or a forged deed shall be null and void" ([Section 53 PD 1529](#)) and can never be a root of a valid title even if it is subsequently registered by the forger (B in this case). When a deed is forged, even if accompanied by the owner's duplicate certificate of title, the registered owner does not lose his title (Bernales vs. Sambaan)

But C acquires a valid title over the land because he is an innocent purchaser for value and that B is not an imposter. If the transferor is an imposter, there is no valid transfer because the title is not under the imposter's name. However in this case, the title is under B as a trustee of A. C

has all the right under the law not to look beyond the face of the title to confirm the validity of the title. C's right must be respected and protected. (Cusi vs. Domingo)

Legal basis: Any subsequent registration procured by a forged duplicate certificate or forged deed shall be null and void

Section 53 PD 1529

Legal basis: When a deed is forged, even accompanied by the owner's duplicate certificate, the registered owner does not lose his title

Bernales vs. Sambaan

Legal basis: The rights of an innocent purchaser for value must be respected and protected

Cusi vs. Domingo

## 1990

Question:

In the 1950's the Government acquired a big landed estate in Central Luzon from the registered owner for subdivision into small farms and redistribution of bona fide occupants. F was a former lessee of a parcel of land, five hectares in area. After completion of the resurvey and subdivision, F applied to buy the said land in accordance with the guidelines of the implementing agency. Upon full payment of the price in 1957, the corresponding deed of absolute sale was executed in his favor and registered, and in 1961, a new title was issued in his name. In 1963, F sold the said land to X; and in 1965, X sold it to Y. New titles were successively issued in the names of the said purchasers.

In 1977, C filed an action to annul the deeds of sale to F, X and Y and their title, on the ground that he had been in actual physical possession of the land, and that the sale to F and the subsequent sales should be set aside on the ground of fraud. Upon motion of the defendants, the trial court dismissed the complaint. Upholding their defenses of their being innocent purchasers for value, prescription and laches. Plaintiff appealed.

a. Is the said appeal meritorious?

No. The appeal of C to annul the deeds is unmeritorious because:

(a) Torrens Title indefeasible after one year.

Assuming that C has been occupying the land, the Original Certificate of Title issued to F becomes indefeasible and incontrovertible one year from its final decree arising from Original Registration Proceedings. (Calalang vs. RoD Quezon City); Section 31 of PD 1529 provides, "The decree of registration shall bind the land, quiet title... and shall be conclusive upon all

persons... whether mentioned in the notice or included in the general description “To all whom it may concern.”

The real purpose of the Torrens System is to forever stop the question of ownership of the land. The subsequent titles issued to X and Y are also indefeasible for they have the right to rely on the face of the title or what is known as the Mirror Doctrine. They are not required to look beyond the title to inquire its validity (Curtain Principle) p. 276 JOA

Legal basis: The decree of registration... is conclusive upon all persons either as mentioned in the notice or included in the description “to all whom it may concern”

Section 31 PD 1529

(b) C is guilty of laches.

From the time of the defendant's full payment and registration in 1957 until the filing of the action in 1977, C failed to reasonably assert his right on the ground that he is allegedly occupying the land. In other words, he is guilty of laches. It revolts against common reason that he is unaware of such registration and conveyances. Moreover, under the law, the acts of registration made by F, X, and Y, served as constructive notice upon him.

Elements of laches are (1) C filed sought for a remedy; (2) C had knowledge of the acts of F, X, Y, and delayed in asserting his right; (3) Absence of knowledge on F,X,Y's part that C would assert his right; (4) Substantial injury on the part of X and Y if remedy will be afforded to C.

What is laches?

Laches is the failure to exercise due diligence in asserting one's right for an unreasonable length of time. In *Lola vs. CA*, the petitioners acquired title to the land because the respondent failed to assert her claim for 32 years - this is the embodiment of laches. The elements of laches include: (1) Complainant seeks a remedy; (2) Complainant delayed in asserting his right though he had knowledge of the defendant's conduct or had the opportunity to institute a suite; (3) Defendant lacked knowledge or notice that the complainant would assert his right; (4) There will be injury to the defendant if relief is accorded to the complainant or suit is not barred. Here, C's appeal must fail because of his unreasonable delay in asserting his right from 1957 to 1977 (20 years). (*Go Chi Gun vs. Co Cho*) p. 405 JOA

Legal basis: Elements of laches

*Lola vs. CA*; *Go Chi Gun vs. Co Cho*

What are the elements of laches?

1. Complainant seeks a remedy
2. He delayed though he had knowledge or opportunity
3. Defendant lacked knowledge that he would assert right
4. There will be substantial injury against the defendant if the remedy is to be accorded

Purpose of laches

To protect the Torrens System and to avoid injustice - [Republic vs. CA and Santos](#)

- b. Suppose the government agency concerned joined C, would that change the result of the litigation?

No. The result will still be the same. In the case of [Republic vs. CA and Santos](#), the court said that estoppel by laches can bar the State from questioning or asserting a claim. Otherwise, the integrity of the Torrens system which the State aims to protect, shall forever be sullied.

Legal basis: Estoppel by laches can bar even the State to protect the Torrens system and to avoid injustice

[Republic vs. CA and Santos](#)

## 1991

### Forged Deed

Question: Bruce is the registered owner, of a parcel of land with a building thereon and is in peaceful possession thereof. He pays the real estate taxes and collects the rentals therefrom. Later, Catalino, the only brother of Bruce, filed a petition where he, misrepresenting to be the attorney-in-fact of Bruce and falsely alleging that the certificate of title was lost, succeeded in obtaining a second owner's duplicate copy of the title and then had the same transferred in his name through a simulated deed of sale in his favor. Catalino then Mortgaged the property to Desiderio who had the mortgage annotated on the title. Upon learning of the fraudulent transaction, Bruce filed a complaint against Catalino and Desiderio to have the title of Catalino and the mortgage in favor of Desiderio declared null and void. Will the complaint prosper, or will the title of Catalino and the mortgage to Desiderio be sustained?

#### **Suggested Answer**

The complaint to declare the mortgage to Desiderio null and void will not prosper because he is an innocent purchaser for value;

As a general rule, a forged deed can never be a root of a valid title. ([Section 53](#)) The exception is that when the title is transferred to the name of the forger, and while it remained that way, it was transferred to an innocent third person - this can become a root of a valid title. (Duran vs. IAC, Guaranteed Homes vs. Valdez)

However, this rule does not apply to victims of [impostors](#) pretending to be the registered owners. (Joaquin vs. Madrid) In this case, Catalino is only a forger and not an impostor. He did not transfer the title to his name by falsely pretending to be Bruce, but by forging the latter's signature. Hence, by virtue of the "Mirror Doctrine" and the "Curtain Principle", Desiderio has the right to rely on what was reflected on the title, his right must be protected, and Bruce can no

longer nullify such a mortgage. However, it will not prejudice the right of Bruce to file an action for damages against Catalino and/or against the National Treasurer from the Assurance Fund.

Legal basis: A forged deed can be a root of a valid title if the title was transferred from the registered owner to the forger, and while it remained that way, to an innocent purchaser.

Duran vs. IAC, Guaranteed Homes vs. Valdez

Legal basis: The rule where a forged deed can be a root of a valid title through an innocent purchaser for value does not apply when such purchaser dealt with an impostor

Joaquin vs. Madrid

Legal basis: A forged deed can never be a root of a valid title

Section 53

## 1992

**Question:** What are the essential requisites or elements for the allowance of the reopening or review of a decree of registration?

Under Section 32 of PD1529, the requisites for the review of the decree of registration are:

1. **Filed by whom (who):** It must be filed by the person claiming real rights over the land registered by the defendant;
2. **Filed because of (how):** The registration is alleged to be procured by actual extrinsic fraud;
3. **Filed within (when):** The action must be filed within 1 year from the date of issuance of the decree of registration;
4. **Filed as long as (condition):** The title has not passed on to an innocent purchaser for value.

### Question

A owned a parcel of unregistered land located on the Tarlac side of the boundary between Tarlac and Pangasinan. His brother B owned the adjoining parcel of unregistered land on the Pangasinan side. A sold the Tarlac parcel to X in a deed of sale executed as a public instrument by A and X. After X paid in full the price of the sale, X took possession of the Pangasinan parcel in the belief that it was the Tarlac parcel covered by the deed of sale executed by A and X.

After twelve (12) years, a controversy arose between B and X on the issue of the ownership of the Pangasinan parcel, B claims a vested right of ownership over the Pangasinan parcel because B never sold that parcel to X or to anyone else.

On the other hand, X claims a vested right of ownership over the Pangasinan parcel by acquisitive prescription, because X possessed this parcel for over ten (10) years under claim of ownership.

Decide on these claims, giving your reasons.

1. Under Section 47, “no title to registered land in derogation of the title of the registered owner shall be acquired by prescription and adverse possession.” In this case, the parcel of land of B is an “unregistered land” and hence the land of B is prescriptible, and X can validly claim acquisition through prescription.
2. Moreover, B is guilty of [laches](#). The crucial element of laches is “delay in asserting one’s rights despite the knowledge of the defendant’s conduct; and having the opportunity to institute an action.” In this case, it would be absurd that B would have never come to the knowledge of such encroachment for a period of 12 years. Hence, X loses his land through extinctive prescription.

To what prescription can apply?

To unregistered lands because Article 47 provides that only to registered lands does prescription not apply in derogation of the title of the registered owner.

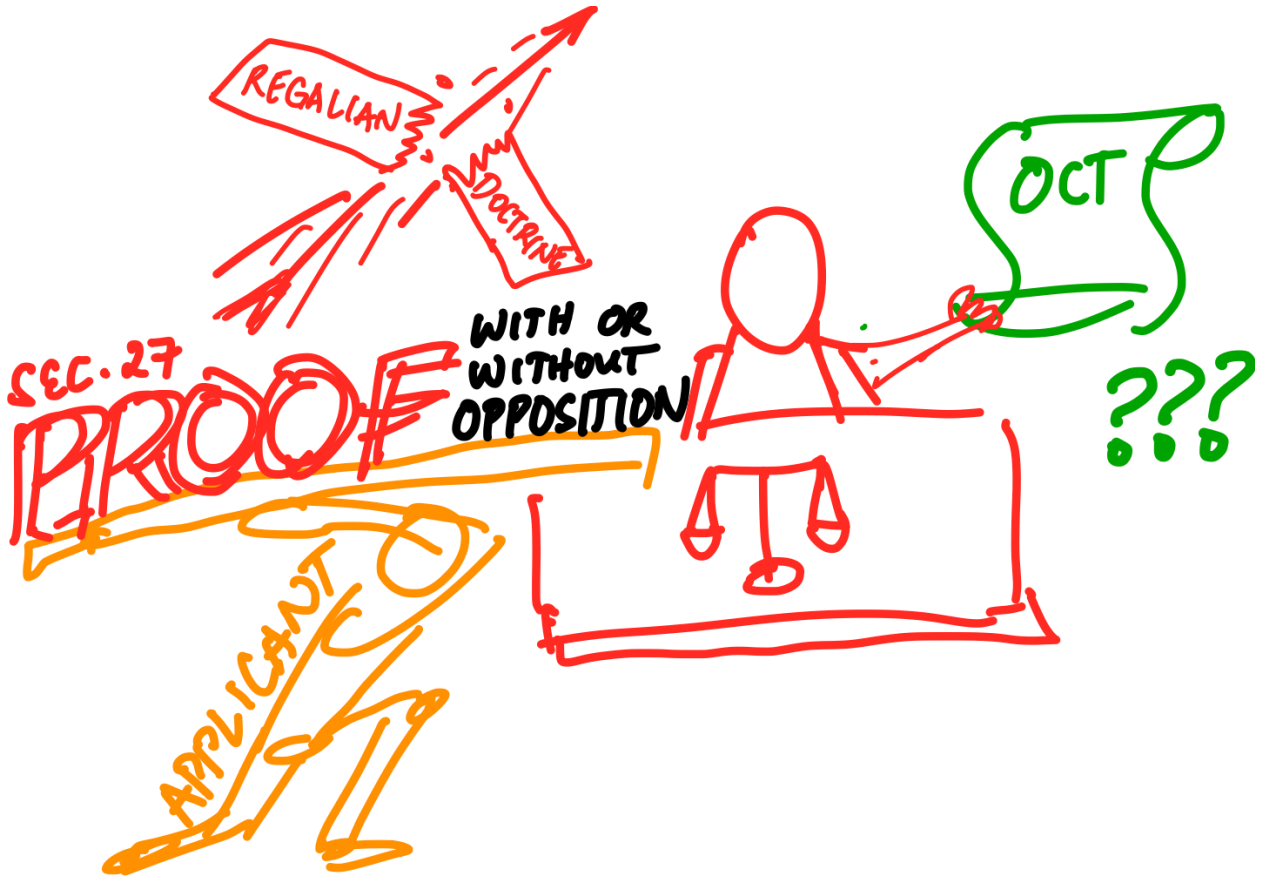
## 1993

### Remedies; Judicial Confirmation; Imperfect Title

Question: On June 30, 1986, A filed in the RTC of Abra an application for registration of title to a parcel of land under P.D. No. 1529, claiming that since June 12, 1945, he has been in open, continuous, exclusive and notorious possession and occupation of said parcel of land of the public domain which was alienable and disposable, under a bona fide claim of ownership. After issuance of the notice of initial hearing and publication, as required by law, the petition was heard on July 29, 1987. On the day of the hearing nobody but the applicant appeared. Neither was there anyone who opposed the application. Thereupon, on motion of the applicant, the RTC issued an order of general default and allowed the applicant to present his evidence. That he did. On September 30, 1989, the RTC dismissed A's application for lack of sufficient evidence. A appealed to the Court of Appeals.

The appellant urged that the RTC erred in dismissing his application for registration and in not ordering registration of his title to the parcel of land in question despite the fact that there was no opposition filed by anybody to his application. Did the RTC commit the error attributed to it?





No, the RTC did not commit the error attributed to it.

Under Section 27 of PD 1529, the judge will render judgment on the registration based on the report submitted by the referee, and such report of the latter must be grounded on the evidence presented by the applicant. The order of general default of any opposing party is not a guarantee of the success of the application. The burden of proof lies on the applicant where he must submit sufficient evidence that would overcome the presumption under the Regalian Doctrine that all lands not clearly shown as private property belong to the State and that such land is a private property. Otherwise, the Land Registration Court may declare the land as public land.

Legal basis: In a judicial confirmation of imperfect title, the judge will render judgment based on the evidence presented

Section 27 of PD 1529

## 1994

**Question:** How do you now register a deed of mortgage of a parcel of land originally registered under the Spanish Mortgage Law?

Under Sec 3 of PD 1529, the system of registration under the Spanish Mortgage Law is discontinued and all lands not covered by Torrens Title within 6 months from Feb 16, 1976 shall be deemed unregistered lands. (PD 892)

All instruments affecting lands registered under the Spanish Mortgage Law, such as a deed of mortgage, shall be registered under Section 113 of PD 1529 until the land shall have been registered under the Torrens System.

Legal basis: The system of registration under the Spanish Mortgage Law is discontinued and all lands not covered by Torrens Title shall be unregistered lands.

Section 3 PD 1529

Legal basis: All instruments affecting such lands under the Spanish Mortgage Law shall be registered under this until the land is registered under Torrens System.

Section 113 of PD 1529

**Question:** What is the procedure of consulta when an instrument is denied registration?

Answer based on Section 117:

- (1) When RoD is in doubt to the proper step to be taken in pursuance of registration of an instrument, or;
- (2) A party does not agree with the action taken by the RoD with regards to the registration of an instrument

Question shall be submitted by:

- RoD to CLR
- by party to CLR thru RoD

When an instrument is denied by the CLR for registration, the Register of Deeds shall first:

- notify the interested party in writing setting forth the defects of the instrument or legal grounds relied upon
- and advise him that if he is not agreeable to such ruling, he may, without withdrawing the documents from the Registry, elevate the matter by consulta to the Administrator or Commissioner of the Land Registration Authority.

**When, Where, How?** Within 5 days from receipt of notice of the denial of registration, he shall file his consulta with the Registration of Deeds concerned and pay the consulta fee.

**“Pending Consulta” Memorandum**

Bryan Villarosa, JD2 | May 2022 | version 1.0

The Register of Deeds shall make a memorandum of the pending consulta on the certification of title which shall be canceled motu proprio by the Register of Deeds after final resolution or decision thereof, or before resolution, if withdrawn by petitioner.

After such filing and payment of consulta fee, the Register of Deeds elevates the case to the LRA Administrator with certified records and a summary of the facts and issues involved.

The LRA Administrator shall then:

1. Due notice to parties
2. Require parties to submit their memoranda
3. Conduct hearings
4. Then issue an order prescribing the steps or memo to be made

The Administrator's resolution in consulta shall be conclusive and binding upon all Registers unless reversed on Appeal by the Court of Appeals or the Supreme Court.

If the applicant still does not agree:

1. May appeal with CA
2. or with SC

Question: Distinguish the "Torrens system" of land registration from the "System of Recording of Evidence of Title (SRET)"

	Torrens Title	System of recording of Evidence of Title (SRET)
Also known as	Titling under <a href="#">Mirror doctrine</a>	Title by deeds
Guaranteed by	State/Statute (e.g. Assurance Fund. PD 1529)	Long series of prior deeds and wills
What is recorded	The past and present title or interest to the land	The deeds of conveyances
Where recorded	with the registry and the certificate	with the registry
Characteristics	Conclusive, indefeasible, imprescriptible	Delayed, uncertain, expensive

## 1995

### Notice of Lis Pendens

Rommel was issued a certificate of title over a parcel of land in Quezon City. One year later Rachele, the legitimate owner of the land, discovered the fraudulent registration obtained by Rommel. She filed a complaint against Rommel for reconveyance and caused the annotation of a notice of lis pendens on the certificate of title issued to Rommel. Rommel now invokes the indefeasibility of his title considering that one year has already elapsed from its issuance. He also seeks the cancellation of the notice of Lis pendens.

May the court cancel the notice of lis pendens even before final judgment is rendered in this case? Explain.

Yes because Rachele did not make the annotation for the purpose of molesting or making unnecessary accusations to the third party. Her action is grounded on her legitimate ownership.

In general, a notice of lis pendens cannot be cancelled while the action is pending. But under Sec. 77 of the PD 1529, the same may be cancelled upon two grounds: (1) if the annotation of lis pendens was for the purpose of molesting the title of the adverse party; (2) if such annotation is not necessary to protect the title of the party who caused it to be recorded. (Romero vs. CA) Here, Rachele did not cause such annotation on such grounds because she is the legitimate owner of the land. Also, such annotation is necessary because Rommel has already fraudulently registered such land.

What is the purpose of *lis pendens*?

To keep the subject matter of the litigation within the power of the court until the litigation is over. Otherwise, the execution of the judgment or the decree of the court will be impossible.

Legal basis: When lis pendens may be cancelled

Sec. 77

Two grounds upon which an annotation of lis pendens may be cancelled

1. Purpose is molesting the other party
2. Unnecessary in protecting the title of the petitioner

## 1996

### Judicial Reconstitution of Title

QUESTION: In 1989, the heirs of Gavino, who died on August 10, 1987, filed a petition for reconstitution of his lost or destroyed Torrens Title to a parcel of land in Ermita, Manila. This was opposed by Marilou who claimed ownership of the said land by a series of sales. She claimed

that Gavino had sold the property to Bernardo way back in 1941 and as evidence thereof, she presented a Tax Declaration in 1948 in the name of Bernardo, which cancelled the previous Tax Declaration in the name of Gavino. Then she presented two deeds of sale duly registered with the Register of Deeds, the first one executed by Bernardo in 1954 selling the same property to Carlos, and the second one executed by Carlos in 1963, selling the same property to her. She also claimed that she and her predecessors in interest have been in possession of the property since 1948.

If you were the judge, how would you decide the petition of the heirs of Gavino to reconstitute lost Title? Explain.

If I were the judge, I would give due course to the petition of the heirs of Gavino despite the opposition of Marilou because the heirs only filed for reconstitution, and the settlement of controversial issues must be ventilated in a separate civil action.

1. Under Section 110, judicial reconstitution of lost or destroyed titles shall be done in accordance with RA 26 insofar as not inconsistent with this Decree.
2. The purpose of reconstitution is to restore the lost or destroyed OCT or TCT back to the same form in the office of Register of Deeds. It's merely an act of restoring the certificate back to its exact original form.
3. Any other purpose such as making any material change in the certificate or resolving any dominical claims involving the ownership of the land should be ventilated in a separate civil action before the RTC as a court of general jurisdiction.
4. Here, the heirs of Gravino merely filed for judicial reconstitution of their lost title. Hence, the court cannot receive the evidence of Marilou proving that she is the owner of the land. Otherwise, the court will act without or in excess of jurisdiction.

What must be the basis of judicial reconstitution?

In accordance with RA 26 (Republic Act 26: An Act Providing a Special Reconstitution of Torrens Certificates of Title Lost or Destroyed)

Legal basis: Judicial reconstitution of lost or destroyed titles shall be done in accordance with RA 26 and its purpose is only restoring the certificate back.

Section 110 of PD 1529

There must be no material change in the reconstitution of title. Otherwise, what should be done: It should be ventilated in a separate civil action.

**1997**

QUESTION: On 10 September 1965, Melvin applied for a free patent covering two lots - Lot A and Lot B - situated in Santiago, Isabela. Upon certification by the Public Land Inspector that

Melvin had been in actual, continuous, open, notorious, exclusive and adverse possession of the lots since 1925, the Director of Land approved Melvin's application on 04 June 1967. On 26 December 1967, Original Certificate of Title (OCT) No. P-2277 was issued in the name of Melvin.

On 7 September 1971, Percival filed a protest alleging that Lot B which he had been occupying and cultivating since 1947 was included in the Free Patent issued in the name of Melvin. The Director of Lands ordered the investigation of Percival's protest. The Special Investigator who conducted the investigation found that Percival had been in actual cultivation of Lot B since 1947.

On 28 November 1986, the Solicitor General filed on behalf of the Republic of the Philippines a complaint for cancellation of the free patent and the OCT issued in the name of Melvin and the reversion of the land to public domain on the ground of fraud and misrepresentation in obtaining the free patent. On the same date, Percival sued Melvin for the reconveyance of Lot B.

Melvin filed his answers interposing the sole defense in both cases that the Certificate of Title issued in his name became incontrovertible and indefeasible upon the lapse of one year from the issuance of the free patent.

**Given the circumstances, can the (a) action of the Solicitor General prosper?**

Yes.

- (1) The action of the Solicitor General shall prosper.
  - (a) Under Section 32 of PD 1529, the certificate of title shall become incontrovertible after the expiration of the period of one year from the issuance thereof. However, such imprescriptibility cannot be a bar against the State (Article 1108 par 4 of the Civil Code and Cavile vs. Litania-Hong). The judgment of the registration court may be attacked at any time by the State.
    - (i) An action for reversion may be instituted by the government in cases where lands of the public domain are held in violation of the Constitution or caused by extrinsic fraud. (Sterling Investment vs. Ruiz)
    - (ii) In such actions, the Republic of the Philippines is the real party in interest. Hence, the action shall be instituted by the Solicitor General (Section 101 of CA 141)
    - (iii) In this case, the ground against Melvin is fraud, and his defense of the imprescriptibility of Torrens Title cannot stand because the opposing party is the State.

Legal basis: The certificate of title shall become incontrovertible after the period of one year from the issuance thereof.

Section 32 PD 1529

Legal basis: Prescription cannot be invoked against the State

Article 1108 of NCC, Cavile vs. Litania-Hong

Legal basis: An action where the RP is a real party in interest shall be instituted by the OSG

Section 101 of CA 141

What is extrinsic fraud?

Extrinsic fraud are deceptive acts made by the winning or successful party in a litigation which is committed outside the trial of a case, where the defeated party was prevented from presenting fully and fairly his side of the case.

Given the circumstances, can the (b) action of Percival prosper?

(2) Yes

In general, actions for reconveyance on the ground of alleged extrinsic fraud prescribe after 4 years or 48 months. (Balbin vs. Medalla)

Here, Melvin obtained his title on December 26, 1967. Percival filed his protest on November 28, 1971. Percival filed after 3 years and 11 months which is within the four-year prescriptive period after discovery of the alleged fraud.

Moreover, in Yared v. Tiongco, the Court cited a catena of cases holding that one instance where prescription cannot be invoked against an action for reconveyance is when a plaintiff is in possession of the land to be reconveyed. The possessor's action to reconvey land in his favor is imprescriptible and partakes of the nature of quieting of title. (Newy v. Quijano).

Hence, whether or not Percival filed within or after four years from the date of issuance of title in favor of Melvin, the suit he will file will still prosper.

Prescription of extrinsic fraud: How many years does an action for reconveyance on the ground of alleged fraud prescribe? + Legal Basis

Four years or 48 months. Balbin vs. Medalla

Legal basis: If the plaintiff is in possession of the land to be reconveyed, action for reconveyance is not proper for such action partakes of the nature of quieting of title.

Yared vs. Tiongco, Newy vs. Quijano

## 1998

Question: Section 70 of Presidential Decree No. 1529, concerning adverse claims on registered land, provides a 30-day period of effectivity of an adverse claim, counted from the date of its

registration. Suppose a notice of adverse claim based upon a contract to sell was registered on March 1, 1997 at the instance of the BUYER, but on June 1, 1997, or after the lapse of the 30-day period, a notice of levy on execution in favor of a JUDGMENT CREDITOR was also registered to enforce a final judgment for money against the registered owner. Then, on June 15, 1997 there having been no formal cancellation of his notice of adverse claim, the BUYER pays to the seller-owner the agreed purchase price in full and registers the corresponding deed of sale. Because the annotation of the notice of levy is carried over to the new title in his name, the BUYER brings an action against the JUDGMENT CREDITOR to cancel such annotation, but the latter claims that his lien is superior because it was annotated after the adverse claim of the BUYER had ipso facto ceased to be effective. Will the suit prosper? [5%]

Yes, the suit of the buyer will prosper. Under Section 70 paragraph 2, an adverse claim over the land shall indeed be effective for a period of thirty days from the date of registration but in the leading case of *Sajonas vs. CA*, the SC held that while the law says such it should not be treated separately from but in relation to the following sentence “after the lapse of 30 days, the annotation of adverse claim may be cancelled upon filing of a verified petition therefor by the party in interest.” The formal cancellation of the adverse claim is still necessary to render it ineffective, otherwise, it shall continue as a lien to the property. A fortiori (stronger argument) is that the 30 day period is immaterial in determining the validity or invalidity of the annotation of adverse claim. In this case, there is no formal cancellation of the notice of adverse claim in favor of the buyer. Hence, it served as a constructive notice to the judgment creditor. Also in Section 108, no alteration shall be made by the RoD upon the memorandum on the certificate of title except by order of the proper RTC.” Moreover, under Section 16, the lien in favor of the judgment creditor shall be subject (inferior) to liens then existing.” This gives the buyer a better right than the judgment creditor and the suit of the former shall prosper.

Legal basis: An adverse claim over the land shall indeed be effective for a period of thirty days but a subsequent formal cancellation is still necessary to render it ineffective.

Section 70 par 2 of PD 1529 and *Sajonas vs. CA*

What is the key ruling in *Sajonas vs. CA*?

That the notice of adverse claim shall be effective for 30 days but it should not be treated separately from the following sentence “...may be cancelled upon filing of a verified petition by the party in interest.”

Legal basis: Alterations on the memorandums on the certificate of title shall only be made by the RoD upon the order of the proper RTC.

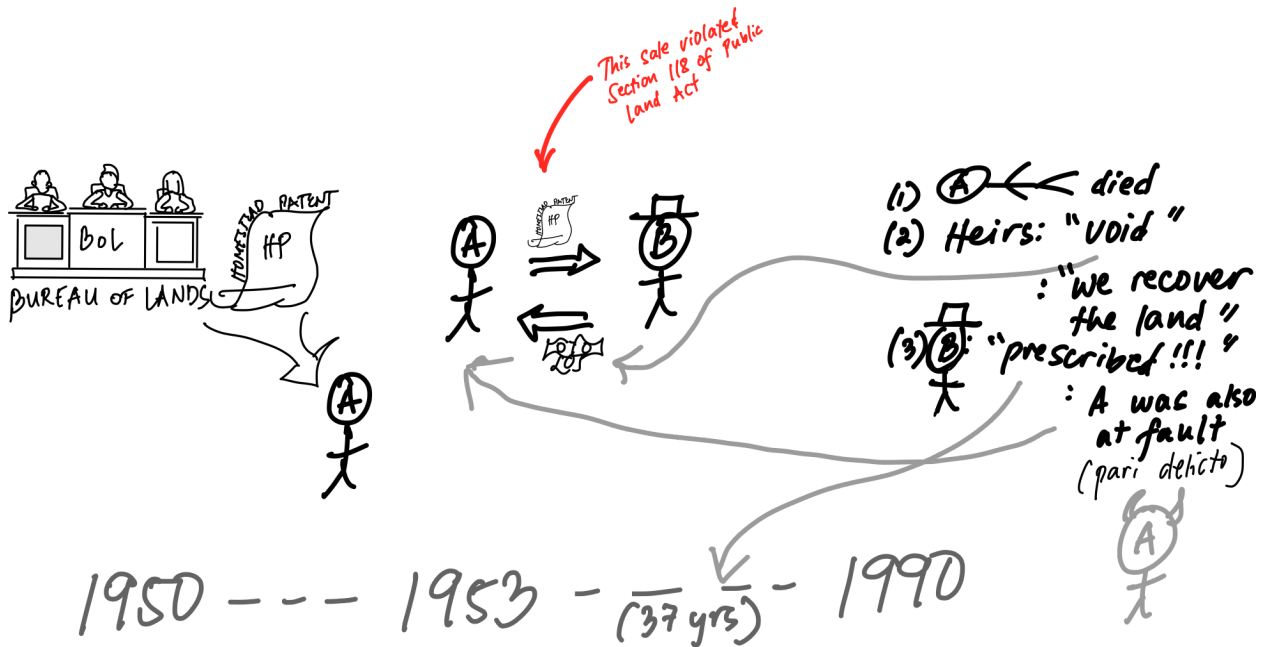
Section 108



1999

### Homestead Patents; Void Sale (1999)

**Question:** In 1950, the Bureau of Lands issued a Homestead patent to A. Three years later, A sold the homestead to B. A died in 1990, and his heirs filed an action to recover the homestead from B on the ground that its sale by their father to the latter is void under Section 118 of the Public Land Law. B contends, however, that the heirs of A cannot recover the homestead from him anymore because their action has Cesar bought a residential condominium unit from High prescribed and that furthermore, A was in pari delicto. Decide. (5%)



**Suggested Answer:** The sale in favor of B does not prescribe because such sale was a void contract. It was in violation of Section 118 of the Public Land Act. Actions to declare contracts as void do not prescribe (Article 1410 NCC). The heirs of A can still file on the ground of prescription.

Second, *pari delicto* or "being equally at fault" is not applicable against A because the purpose of homestead patents under the Public Land Act is to give land to the landless. The law even allows A to reacquire the land after it was sold within the 5 year prohibitory period. Hence, A was not in *pari delicto* due to public policy.

However, the heirs of A may be barred from recovering the land from B on the ground of laches. Almost forty years has passed within which they did bring any action B, especially if B had already made improvements on the land and such recovery will cause damage and injury to B.

How many years before a homestead patent can be sold?

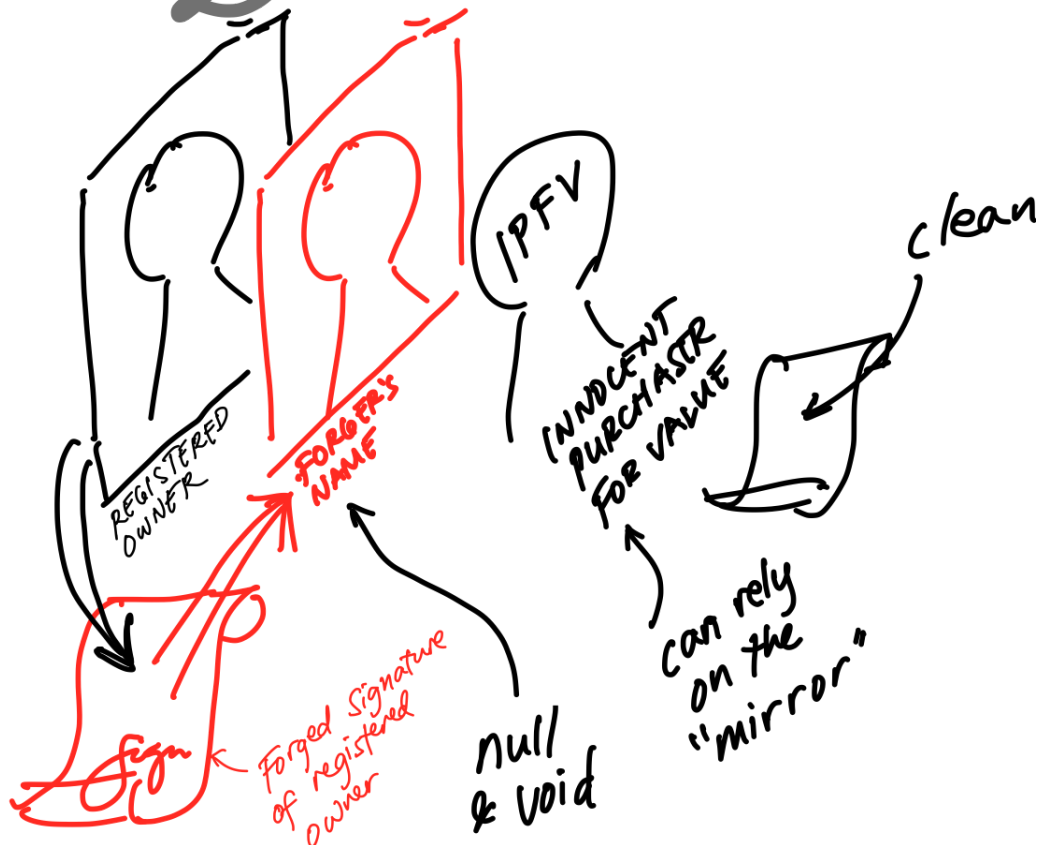
5 years under CA 141 Sec. 118; but it is worth noting that [RA 11573](#) promulgated last July 16, 2021 has removed such restrictions from Free Patents

Legal basis: Actions to invalidate void contracts do not prescribe

Article 1410 of NCC

## Mirror Doctrine or Principle

# MIRROR DOCTRINE



Mirror doctrine complements the purpose of the Torrens system. It provides that every person with a registered land may safely rely on the correctness of its Certificate of Title and is in no way obliged to look beyond the certificate to determine the condition of the property.

Every subsequent purchaser for value and in good faith holds his title free from all encumbrances except those noted in the certificate. - *Locsin vs. Hizon*. In other words, just like a mirror, only the flaws reflected by the title are the actual flaws of the registered land.

Legal basis or Mirror Doctrine

Locsin vs. Hizon

What did the Mirror Doctrine/Torrens System replace?

SRET (System of Recording of Evidence of Title)

### Forgery; Innocent Purchaser (1999)

**Question:** The spouses X and Y mortgaged a piece of registered land to A, delivering as well the OCT to the latter, but they continued to possess and cultivate the land, giving 1/2 of each harvest to A in partial payment of their loan to the latter, A, however, without the knowledge of X and Y, forged a deed of sale of the aforesaid land in favor of himself, got a TCT in his name, and then sold the land to B, who bought the land relying on A's title, and who thereafter also got a TCT in his name. It was only then that the spouses X and Y learned that their land had been titled in B's name. May said spouses file an action for reconveyance of the land in question against B? Reason. (5%)

**Suggested Answer:** The action of spouses X and Y against purchaser B will not prosper because B acquired the title as an innocent purchaser for value.

A forged deed is an absolute nullity and can never be a root of a clean title. Even if the forged deed was then registered and a certificate of title was then issued in the name of the forger, such title does not vest ownership in favor of the forger. (Registration of the forged deed is not a cure for the invalid title)

However, if the title is registered under the name of the forger, and while it remained that way, the title was then transferred to an innocent purchaser for value, the latter acquires a clean title because of the Mirror Doctrine. He has the right to rely on what is stated on the face of the certificate of title and not required to look beyond thereof in quest for any hidden defect. (Duran vs. IAC, Guaranteed Homes vs. Valdez)

Here, the title under the name of A is a nullity for it arose from a forged deed of sale. However, when the title under A remained that way and was shown to B, the latter has the right to rely on what was stated on the face of the title and is not required to look beyond thereon quest for hidden defect.

Moreover, it appears that the spouses X and Y are guilty of contributory negligence for they delivered their OCT to mortgagee A without annotating the mortgage thereon. Between the spouses and the innocent purchaser for value, the negligent transferor shall suffer loss.

**Alternative Answer:** The action of the spouses against B will prosper because the latter is in bad faith. Nobody buys land without seeing the property first. (Republic vs. Guinto-Aldana)

Hence, B could have been aware of the adverse and continued “possession and cultivation” of the spouses X and Y. If after B’s awareness, he closed his eyes and did nothing, then the suit of the spouses to recover the land will prosper on the ground of B’s bad faith.

Legal basis: The Original Tracing Cloth Plan is the best evidence to identify a piece of land  
Republic vs. Guinto-Aldana

## 2000

**Question:** Regina has been leasing foreshore land from the Bureau of Fisheries and Aquatic Resources for the past 15 years. Recently, she learned that Jorge was able to obtain a free patent from the Bureau of Lands, covering the same land, on the basis of a certification by the District Forester that the same is already "alienable and disposable". Moreover, Jorge had already registered the patent with the Register of Deeds of the province, and he was issued an Original Certificate of Title for the same. Regina filed an action for annulment of Jorge's title on the ground that it was obtained fraudulently. Will the action prosper?

**Suggested Answer:** The action of Regina to annul Jorge’s title will prosper because:

1. “Regina has been leasing foreshore land” - under the Public Land Act, foreshore lands can only be leased when no longer needed for public service.
2. “from the BFAR” - this means that the land she leased is for fishpond or aquaculture purposes because such lands are under the jurisdiction of BFAR.
3. “Jorge was able to obtain a free patent” - this is invalid because under the Public Land Act because free patents are mode of concessions only applicable to agricultural lands.
4. A “free patent” can only be issued if the applicant has occupied and cultivated the land since July 4, 1945. Here, it is clear that it is Regina that has been doing so and not Jorge. Hence his free patent is highly irregular and void ab initio.
5. “from the Bureau of Land on the basis of the certification by the District Forester” - the certification means that the land is no longer intended for forest purposes which could be a basis free patent. However, the Bureau failed to consider that the land is already subject to the lease agreement between BFAR and Regina. Also, it is neither an agricultural nor a forestland, but a foreshore land. Hence, it has no statutory authority.

Legal basis: Free patents are mode of concessions only applicable to agricultural lands not foreshore land

Public Land Act Section 44

When can a free patent be issued?

When the applicant or his predecessor in interest has occupied and cultivate the land for at least 20 years (PD 1529 Sec. 14 as amended by RA 11573)

## 2001

**Question:** In 1979, Nestor applied for and was granted a Free Patent over a parcel of agricultural land with an area of 30 hectares, located in General Santos City. He presented the Free Patent to the Register of Deeds, and he was issued a corresponding Original Certificate of Title (OCT) No. 375. Subsequently, Nestor sold the land to Eddie. The deed of sale was submitted to the Register of Deeds and on the basis thereof, OCT No. 375 was cancelled and Transfer Certificate of Title (TCT) No. 4576 was issued in the name of Eddie. In 1986, the Director of Lands filed a complaint for annulment of OCT No. 375 and TCT No. 4576 on the ground that Nestor obtained the Free Patent through fraud. Eddie filed a motion to dismiss on the ground that he was an innocent purchaser for value and in good faith and as such, he has acquired a title to the property which is valid, unassailable and indefeasible. Decide the motion.

**Suggested Answer:**

The motion of Eddie to dismiss should be denied.

(A) Eddie cannot claim protection as an innocent purchaser for value because his TCT is rooted in a void title.

1. Before, more than 24 hectares was void (CA 141 Sec. 44). But because of RA 11573 Sec. 3, free patents are now only limited to a maximum of 12 hectares. The patent issued to Nestor covers 30 hectares, which is in excess as provided by the free patent law and the Constitution ( Sec. 3). Hence, Nestor's patent is void ab initio. (CA 141 Section 12);
2. Under CA 141 Section 91, false statements in the applications for public land titles shall produce the cancellation of the concession. Nestor's title shall be void.

(B) Actions of the government to annul titles do not prescribe and is not barred by a subsequent transfer to an innocent purchaser for value if:

- a. the title that covers the public land grant is fraudulently obtained;
- b. The protection under the Torrens System can only be availed in favor of the IPFV and against the State if the land is titled through judicial proceedings and not through fraud.

Legal basis: Filipino Citizens may not acquire alienable agricultural lands more than 12 hectares either by purchase, homestead or grant.

Article XII Section 3 of the Constitution

Legal basis: Limit now to free patent is 12 hectares, no longer 24 hectares

RA 11573 Sec. 3 amending CA 141 Sec. 44

Legal basis: False statements in the application for public land titles shall cancel the concession  
CA 141 Sec. 91

2001

Lis Pendens: When proper

**Question:** Mario sold his house and lot to Carmen for P1 million payable in five (5) equal annual installments. The sale was registered and the title was issued in Carmen's name. Carmen failed to pay the last three installments and Mario filed an action for collection, damages and attorneys fees against her. Upon filing of the complaint, he caused a notice of lis pendens to be annotated on Carmen's title. Is the notice of lis pendens proper or not? Why? (5%)

**Suggested Answer:**

Mario's notice of lis pendens is improper because what he filed is an action *in personam* and not an action *in rem* which involves title to or interest in a real property.

Lis pendens literally means "pending suit" and is appropriate mainly in real actions that deal with the title, possession, use or occupation of a property. This includes actions to recover, quiet title, remove clouds, or partition. The litigation must directly involve a specific property where the latter can be necessarily affected by the judgment.

Because the action in which he filed the notice thereto is a suit for the recovery of a money judgment (Biglang-awa vs. Constantino), an action in personam, and not mainly a real action, the notice is improper.

The purpose of lis pendens is a notice and a warning to the whole world that a particular property is in litigation, but there is no such "notice of litigation" over the property if the action upon which it is filed only binds a person (e.g. collection suit) though the title is incidentally affected. (Atlantic Erectors v. Herbal Cove)

Where does a notice of lis pendens apply?

Only in actions *in rem* and not in actions *in personam*.

Legal basis: If the action is for recovery of money judgment or action in personam, the notice of lis pendens is improper. There is no "notice of litigation" over a property when there is only an action *in personam*.

Biglang-awa vs. Constantino, Atlantic Erectors vs. Herbal Cove

What are the grounds where an annotation of a lis pendens is proper?

- In cases involving title of real property
- involving use, occupation, or possession of real property
- Quieting of title or removal of cloud thereon
- Partition
- Other than these grounds, an annotation of *lis pendens* is improper

2002

## Notice of Lis Pendens; Transferee Pendente Lite

Sancho and Pacifico are co-owners of a parcel of land. Sancho sold the property to Bart. Pacifico sued Sancho and Bart for annulment of the sale and reconveyance of the property based on the fact that the sale included his one-half pro-indiviso share. Pacifico had a notice of lis pendens annotated on the title covering the property and Sancho ordered the cancellation of the notice of lis pendens. The notice of lis pendens could not be cancelled immediately because the title over the property was with a bank to which the property had been mortgaged by Bart. Pacifico appealed the case. While the appeal was pending and with the notice of lis pendens still uncanceled, Bart sold the property to Carlos, who immediately caused the cancellation of the notice of lis pendens, as well as the issuance of a new title in his name.

Is Carlos (a) a purchaser in good faith, or (b) a transferee pendente lite? If your answer is (a), how can the right of Pacifico as co-owner be protected? Explain.

1. No, Carlos is not a purchaser in good faith. When Carlos bought the property from Bart, the notice of lis pendens was still annotated at the back of the title. This serves as a full notice of the fact that it is in litigation between Sancho and Pacifico. Even after the lapse of the period of 30 days, the notice of lis pendens remains effective without the order of the court or the petition of the party who caused the registration thereof.
  - a. A transferee pendente lite is a one which stands in the shoes of his transferor and his title is bound by the incidents or judgment of the pending litigation. (Selph vs. Aguilar)
  - b. Hence, Carlos is a transferee pendente lite insofar as Sancho's share in the co-ownership of the land is concerned because the land was transferred to the former during the pendency of the appeal.
2. The right of Pacifico as a co-owner can be protected by pursuing his appeal which is to ask the Court of Appeals to order the re-annotation of the lis pendens on the title of Carlos;
  - a. Pacifico may also exercise his right to legal redemption under Article 1620 of the New Civil Code. He has the right to redeem the share of Sancho/Bart at a reasonable price.

What is transferee pendente lite? + Legal basis

One which stands in the shoes of his transferor and his title is bound by the incidents or judgment of the pending litigation. (Selph vs. Aguilar)

What is the purpose of notice of lis pendens?

1. To protect the rights of the party causing the registration of the lis pendens;
2. To advise third persons who purchase the subject property that they do so at their own peril and subject to pending litigation.

How can a co-owner protect his rights when other co-owners sold their property?

1. Pursue re-annotation of lis pendens with the CA;
2. Exercise right of legal redemption under Article 1620 NCC which is redeeming the share of the property of his co-owners at a reasonable price.

Legal basis: Right to legal redemption by the co-owner

Article 1620 of the NCC

## Torrens System – Indefeasibility of Title

Way back in 1948, Winda's husband sold in favor of Verde Sports Center Corp. (Verde) a 10-hectare property belonging to their conjugal partnership. The sale was made without Winda's knowledge, much less consent. In 1950, Winda learned of the sale, when she discovered the deed of sale among the documents in her husband's vault after his demise. Soon after, she noticed that the construction of the sports complex had started. Upon completion of the construction in 1952, she tried but failed to get free membership privileges in Verde. Winda now files a suit against Verde for the annulment of the sale on the ground that she did not consent to the sale, in answer, Verde contends that, in accordance with the Spanish Civil Code, which was then in force, the sale in 1948 of the property did not need her concurrence. Verde contends that in any case the action has prescribed or is barred by laches. Winda rejoins that her Torrens title covering the property is indefeasible, and imprescriptible.

A. Define or explain the term laches (2%)

[Definition of laches](#)

B. Decide the case, stating your reasons for your decision. (3%)

While the Spanish Civil Code (Article 1413) did not require the consent of the wife for the validity of the sale, such sale is void if alienated by the husband in fraud of the wife. (Uy Coque v. Navas)

However, even assuming that the alienation was in fraud of Winda, the action to set aside the sale is already barred by prescription and laches. More than 52 years have already passed from her discovery of the sale in 1950 because today is already the year 2002 or 2022. (depends on the date of answering this exam)

Laches shall bar the action when substantial injury and damages will be caused to the defendant if relief is accorded to the complainant.



2003

## Land Registration

**Question:** In 1970, the spouses Juan and Juana de la Cruz, then Filipinos, bought a parcel of unregistered land in the Philippines on which they built a house which became their residence. In 1986, they migrated to Canada and became Canadian citizens. Thereafter, in 1990, they applied, opposed by the Republic, for the registration of the aforesaid land in their names. Should the application of the spouses De la Cruz be granted over the Republic's opposition? Why?

### **Suggested Answer:**

Yes, the application of spouses De la Cruz should be granted.

As a rule, Article XII Sec. 7 of the Constitution only allows transfer of private lands to individuals who are qualified to hold public domain. In other words, non-Filipinos are prohibited from acquiring title to private lands.

Legal basis: Foreigners/Non-Filipinos are not allowed to acquire title to private lands

Article XII Sec. 7 of the 1987 Constitution

However, this Constitutional prohibition does not apply to the spouses because at the time they bought the unregistered land, they were still Filipino citizens. Registration is a mere confirmation of the imperfect title which the spouses already have before they became Canadian citizens (Republic vs. CA 1994)

## Land Transfer and Reconveyance Based on Decree of Registration

Question:

Louie, before leaving the country to train as a chef in a five-star hotel in New York USA, entrusted to his first-degree cousin Dewey an application for registration, under the Land Registration Act of a parcel of land located in Bacolod City. A year later, Louie returned to the Philippines and discovered that Dewey registered the land and obtained an Original Certificate of Title over the property in Dewey's name. Compounding the matter, Dewey sold the land to Huey, an innocent purchaser for value. Louie promptly filed an action for reconveyance of the parcel of land against Huey.

A. Is the action pursued by Louie the proper remedy?

No. An action for reconveyance against Huey is not a proper remedy because Huey is an innocent purchaser for value. Huey's right must be respected and protected. (Duran vs. IAC, Guaranteed Homes vs. Valdez)

1. The proper remedy for Louie is to file an action for damages against his cousin Dewey because of the latter's fraudulent registration and subsequent sale of the land.

2. If Dewey is insolvent, Louie may file against the National Treasury to claim against the Assurance Fund. (Heirs of Lopez vs. De Castro)

Legal basis: A forged deed may become the root of a valid title if the certificate has been transferred from the name of the true owner to the forger and while it remained that way, was sold to an innocent purchaser for value. The purchaser has the right to rely on what appeared in the certificate.

Duran vs. IAC, Guaranteed Homes vs. Valdez

Case: If defendant is insolvent, plaintiff may file against the Assurance Fund.

Heirs of Lopez vs. De Castro

B. Assuming that re-conveyance is the proper remedy, will the action prosper if the case was filed beyond one year. but within ten years from the entry of the decree of registration? (2003 Bar Question)

Yes, the action filed beyond the one year period will prosper.

An action for reconveyance is distinct from a petition to reopen the decree of registration. The former prescribed in ten (10) years, while the latter prescribes in one (1) year. (Alba vs. De la Cruz)

If the defendant is in possession of the title and of the land, such possession is deemed as implied or constructive trust in favor of the registered owner. The action for reconveyance filed by the owner prescribes in ten (10) years.

But if the registered owner is in possession and not the defendant, there is no need for an action for reconveyance. The proper action is one for quieting of title which never prescribes. (David vs. Malay)

When does action for reconveyance prescribe?

10 years (Alba vs. De la Cruz)

When does action to reopen a decree of registration prescribe?

1 year (Section 32 PD 1529, Alba vs. De la Cruz)

An action for reconveyance prescribes in 10 years if the defendant is in possession, but what if the plaintiff is in possession?

Action never prescribes because it comes in the nature of quieting the title.

## 2004

Question:

JV, owner of a parcel of land, sold it to PP. But the deed of sale was not registered. One year later, JV sold the parcel again to RR, who succeeded to register the deed and to obtain a transfer certificate of title over the property in his own name.

**Who has a better right over the parcel of land, RR or PP? Why? Explain the legal basis for your answer.**

It depends whether RR registered the deed in good faith.

Under Section 51 of PD 1529, a deed of sale operates only as a contract between the parties and as an evidence of authority for the RoD to register. The operative act that conveys the land and affects third persons is the act of registration. In cases of double sale, the buyer who first registers the sale acquires a better right to the land. However, such registration must be done in good faith or without knowledge of a prior right. (Article 1544 NCC)

In this case, absent any evidence that RR knew about the prior sale to PP, he is an innocent purchaser for value and a registrant in good faith. PP is not required to look beyond what appears on the face of the title. If PP knew such prior sale, such knowledge constitutes prior registration and a better right.

Legal basis: A deed of sale is only a contract between parties if not registered. If registered, binds the whole world.

Section 51 PD 1529

## 2005

Rod, the owner of an FX taxi, found in his vehicle an envelope containing TCT No. 65432 over a lot registered in Cesar's name. Posing as Cesar, Rod forged Cesar's signature on a Deed of Sale in Rod's favor. Rod registered the said document with the Register of Deeds, and obtained a new title in his name. After a year, he sold the lot to Don, a buyer in good faith and for value, who also registered the lot in his name.

a) Did Rod acquire title to the land? Explain.

When Rod registered the forged deed, such registration is void for it was not made in good faith. In a catena of cases, it is settled that a registrant in bad faith cannot claim the protection of indefeasibility of a Torrens Title. ([Leung Yee vs. Strong Machinery](#)) He is not entitled to the protection of law for the law cannot be used as a shield for frauds. Also, a [forged deed can never be a root of a valid title](#).

b) Discuss the rights of Don, if any, over the property.

Don has the right to recover the purchase price from Rod plus damages.

It is a well-known rule in this jurisdiction that persons dealing with registered land have the legal [right to rely on the face of the Torrens Certificate of Title](#) and to dispense with the need to inquire further, except when the party concerned has actual knowledge of facts and circumstances that would impel a reasonably cautious man to make such inquiry.

In the given problem, the property was already registered in the name of Rod when he bought the same from the latter. Thus, Don could be considered as a buyer in good faith and for value. However, since Rod did not acquire valid title over the property, Don has no right to retain ownership over the property. He has only the right to recover the purchase price plus damages.

## 2006

### Question:

Spouses Alfredo and Racquel were active members of a religious congregation. They donated a parcel of land in favor to that congregation in a duly notarized Deed of Donation, subject to the condition that the Minister shall construct thereon a place of worship within 1 year from the acceptance of the donation. In an affidavit he executed in behalf of the congregation, the Minister accepted the donation. The Deed of Donation was not registered with the Registry of Deeds.

If you were the counsel, what action would you take to protect the interests of your clients?

If I were the counsel of the spouses, I will file an action for reconveyance of the property with a petition to annotate a notice of [lis pendens](#) on the certificate of title.

The ground is because the donation was not perfected. Although the Deed of Donation was notarized/made in a public document and was accepted in a separate document, the acceptance was not made known to the donor as required by Article 749 of the New Civil Code. In other words, the donee failed to notify the donor which is a necessary act for a donation to become valid and binding.

Since the action is a recovery of title of property, the annotation for a lis pendens is proper and also to prevent the land from transferring to an innocent purchaser for value.

Legal basis: If the donee accepted the donation in a separate public document, the donor must be notified of such acceptance.

Article 749 of NCC

What are the grounds where an annotation of a lis pendens is proper?

- In cases involving title of real property
- involving use, occupation, or possession of real property
- Quieting of title or removal of cloud thereon

- Partition

2007

## Governing laws on land acquisition; Non-registrable properties

Question:

Bedrock Land & Property development Corp., is a development company engaged in developing and selling subdivisions, condominium units and industrial estates. In-order to replenish its inventories, it embarked on aggressive land banking programs. It employed “scouts” who roamed around the Philippines to conduct investigations on prospective sites for acquisition and development, whether developed or raw land. The management of the bedrock asks you as the company counsel to prepare a manual containing a summary of the pertinent laws and regulations relating to land registration and acquisition and title to the land. The manual should include the following items:

1. What is the governing law and other pertinent laws relating to land registration and acquisition of land in the Philippines?

- The manual should include the governing law which is PD 1529 also known as the Property Registration Decree which amended the Land Registration Act. (Act 496) It provides what lands may be registered, who may apply, and what agencies are involved to certify a land’s alienability.
- Other pertinent laws:
  - Commonwealth Act 141 of 1936 of “Public Land Act”
    - Section 103 - governs homestead, sales, or free patent
    - Section 104 - governs land transfer certificates and emancipation patents and CLOA (Certificate of Land Ownership Award) under the CARL
  - RA 26 governs the judicial reconstitution of lost or destroyed certificate of title
  - RA 6732 governs administrative reconstitution of lost or destroyed certificate of title

What law governs judicial reconstitution of lost or destroyed certificate of title?

RA 26

What law governs administrative reconstitution of lost or destroyed certificate of title?

RA 6732

2. What properties are not registrable?

- Lands of public dominion / inalienable / lands not clearly shown to be owned by any private individual are owned by the State (Regalian Doctrine)

- Alienable agricultural lands but are reserved for public use or service (civil or quasi-public)
- Timber/forest, mineral lands, national parks
- Mangrove swamps (Matano v. Insular Government)
- Military or naval reservations

2008

### Accretion, Alluvium<sub>(page 85 Agc)</sub>

The properties of Jessica and Jenny, who are neighbors, lie along the banks of the Marikina River. At certain times of the year, the river would swell and as the water recedes, soil, rocks and other materials are deposited on Jessica's and Jenny's properties. This pattern of the river swelling, receding and depositing soil and other materials being deposited on the neighbors' properties have gone on for many years. Knowing this pattern, Jessica constructed a concrete barrier about 2 meters from her property line and extending towards the river, so that when the water recedes, soil and other materials are trapped within this barrier. After several years, the area between Jessica's property line to the concrete barrier was completely filled with soil, effectively increasing Jessica's property by 2 meters. Jenny's property, where no barrier was constructed, also increased by one meter along the side of the river. x x x

Question A: If Jessica's and Jenny's properties are registered, will the benefit of such registration extend to the increased area of their properties? (2%)

No, it will not extend to the increased areas. Article 457 of the NCC provides that the along river banks belongs to the riparian owners. is the gradual deposit of soil on the banks. However, must be (1) gradual and imperceptible; (2) must be the exclusive work of nature; (3) takes place on the land adjacent to the rivers. The owner can only be considered as the lawful owner of the if he applies for registration of such. Without doing so, it may be acquired by third persons through prescription.

In this case, the on Jessica's and Jenny's properties failed to meet the requirements because the increases on their lands were man-made (Jessica's artificial concrete barrier).

Hence, the benefits of registration will not extend to the increased area.

Legal basis: The natural accession along river banks belong to the riparian owners.

Article 457 NCC

Question A:

Assume the two properties are on a cliff adjoining the shore of Laguna Lake. Jessica and Jenny hotel built on the properties. They had the earth and rocks excavated from the properties dumped on the adjoining shore, giving rise to a new patch of dry land.

Can they validly lay claim to the patch of land? (2%) (2008 BAR)

Answer:

No. Article 84 of the Spanish Law of Waters of 1866 provides that “s deposited gradually upon lands contiguous to ... lakes by ... sediments from waters belong to the owner of such lands.”

In this case, the sediments or alluvium are (a) not gradual; (b) not the exclusive work of nature; (c.) excavated from the adjoining land, not from the waters.

Hence, they Jessica and Jenny cannot validly claim title over such a patch of land.

Legal basis: Lands formed naturally by sediments in the lakes belong to the contiguous owners.

Article 84 of Spanish Law of Waters of 1866

## Registration

Question:

Juliet offered to sell her house and lot, together with all the furniture and appliances therein, to Dehlma. Before agreeing to purchase the property, Dehlma went to the Register of Deeds to verify Juliet’s title. She discovered that while the property was registered in Juliet’s name under the Land Registration Act, as amended by the Property Registration Decree, it was mortgaged to Elaine to secure a debt of P80,000. Wanting to buy the property, Dehlma told Juliet to redeem the property from Elaine, and gave her an advance payment to be used for purposes of releasing the mortgage on the property. When the mortgage was released, Juliet executed a Deed of Absolute Sale over the property which was duly registered with the Registry of Deeds, and a new TCT was issued in Dehlma’s name. Dehlma immediately took possession over the house and lot and the movables therein. Thereafter, Dehlma went to the Assessor’s Office to get a new tax declaration under her name. She was surprised to find out that the property was already declared for tax purposes in the name of XYZ Bank which had foreclosed the mortgage on the property before it was sold to her. XYZ Bank was also the purchaser in the foreclosure sale of the property. At that time the property was still unregistered but XYZ Bank registered the Sheriffs Deed of Conveyance in the day book of the Register of Deeds under Act. 3344 and obtained a tax declaration in its name.

What is the meaning and purpose of registration?

It is the ministerial act by which a deed is inscribed in the Records of the Registry of Deeds and annotated at the back of the TCT covering the land subject of the deed contract, or instrument. It creates a constructive notice to the whole world and binds third persons. (Aboitiz vs. Po)

Was Dehlma a purchaser in good faith? (2%)

Yes, Dehlma is a purchaser in good faith. She only learned about the tax declaration and foreclosure in favor of XYZ bank after she paid the debt of Juliet to Elaine and registered the property. Under the [Mirror Doctrine](#), Dehlma rightfully relied on the face of the certificate of title and is not required by law to look beyond further. At that time, she only discovered that the land was mortgaged to Elaine and no other. Hence, Dehlma is a buyer in good faith.

The fact that XYZ Bank registered the land under Act 3344 is unavailing because under the said law, the registration therein shall not prejudice any title that has a better right.

Legal basis: Registration under this law shall not prejudice title holders or applicants with a better right

Act 3344

Who has between Dehlma and XYZ Bank has a better right to the house and lot? (2%)

Between Dehlma and the bank, the former has a better right to the house and lot.

## 2009

Question:

Before migrating to Canada in 1992, the spouses Teodoro and Anita entrusted all their legal papers and documents to their nephew, Atty. Tan. Taking advantage of the situation, Atty. Tan forged a deed of sale, making it appear that he had bought the couple's property in Quezon City. In 2000, he succeeded in obtaining a TCT over the property in his name. Subsequently, Atty. Tan sold the same property to Luis, who built an auto repair shop on the property. In 2004, Luis registered the deed of conveyance, and title over the property was transferred in his name. In 2006, the spouses Teodoro and Anita came to the Philippines for a visit and discovered what had happened to their property. They immediately hire you as a lawyer.

What action or actions will you institute in order to vindicate the rights of the Spouses over their property fraudulently sold by their trustee Attorney? Explain fully.

1. Civil action for recovery of the value of the property plus damages against Atty. Tan for fraudulently conveying the spouses' property to the detriment of the latter's property rights; The action is not against Luis for reconveyance of property because he was an innocent purchaser for value. Luis has all the legal rights to rely on the face of the certificate title, which at the time of purchase, was under the name of Atty. Tan and there



is nothing in the circumstances that will reasonably put him into inquiry. Luis' rights must be protected and respected.

2. Action against the State Assurance Fund where the National Treasurer is the defendant. Under [section 93 of PD 1529](#), the law provides that [if deprivation of property arises from fraud of persons other than court or RoD personnel... the action shall be brought against the National Treasurer](#), and such action does not deprive the plaintiff to file an action against non-court personnel only.
3. A criminal action for forgery or falsification of public documents against Atty. Tan.
4. A complaint with the Supreme Court or IBP, as the case may be, to disbar, suspend, or discipline Atty. Tan in violation of the Code of Professional Ethics (Rule 238 Sec. 27 of the ROC)

Legal basis: File against the Assurance Fund where the National Treasurer as the defendant when the plaintiff is deprived of property arising from fraud, mistake, negligence, misfeasance of RoD, its employees, court personnel, deputy, or other persons.

Section 95 {PM} of PD 1529, Heirs of Lopez vs. De Castro

#### Question

In 1972, Luciano de la Cruz sold to Chua Chung Chun, a Chinese citizen, a parcel of land in Binondo, Chua died in 1990 leaving behind his wife and three children, one of whom, Julian is a naturalized Filipino citizen. Six years after Chua's death, the heirs executed an extrajudicial settlement of the estate, and the parcel of land was allocated to Julian. In 2007, Luciano filed suit to recover the land he sold to Chua, alleging that the sale was void because it contravened the Constitution which prohibits the sale of private lands to aliens, Julian moved to dismiss the suit on grounds of *pari delicto*, laches and acquisitive prescription.

Decide the case with reasons.

The case filed by Luciano shall not prosper.

Legal basis: If a land is invalidly transferred to an alien who then becomes a Filipino citizen, or then transfers the land to a Filipino citizen, the original flaw is cured and the transfer is valid.

De Castro vs. Tan (April 1984)

Julian is already a naturalized Filipino citizen when the land of his father was transferred to him. The flaw in his father's ownership has been cured by the transfer to a Filipino citizen, and there is no more violation of the [Constitution \(Article XII Sec. 7\)](#).

Furthermore, Luciano is also guilty of [laches](#) for failing to question the ownership of Chua within a reasonable time.

## Accretion

### Question

Marciano is the owner of a parcel of land through which a river runs out into the sea. The land had been brought under the Torrens System, and is cultivated by Ulpiano and his family as farmworkers therein. Over the years, the river brought silt and sediment from its source up in the mountains and forests so that gradually the land owned by Marciano increased in area by three hectares. Ulpiano built three huts on this additional area, where he and his two married children live. On this same area, Ulpiano and his family planted peanuts, mungo, beans and vegetables. Ulpiano also regularly paid taxes on the land, as shown by tax declarations, for over thirty years.

When Marciano learned of the increase in the size of the land he ordered Ulpiano to demolish the huts, and demanded that he be paid his share in the proceeds of the harvest. Marciano claims that under the civil code, the alluvium belongs to him as a registered riparian owner to whose land the alluvium attaches, and that his right is enforceable against the whole world.

Who is the owner of the alluvium? The occupant Ulpiano or the registered owner of the adjacent lot Marciano?

The owner is Ulpiano. Under Article 457 NCC, the riparian owner is considered the lawful owner of the accretion to his property. But this is not automatic just because the land to which the alluvium is attached is under the Torrens System. To bring an alluvium under the ownership of the riparian owner, there must be application for registration filed for the purpose. (Cureg vs. IAC) When not registered, such land may be acquired by third persons (Grande vs. CA)

Legal basis: Accretion must be registered to belong to the riparian owner. Otherwise, it may be acquired by third persons.

Cureg vs. IAC, Grande vs. CA

2010

### Question

Which of the following is an indispensable requirement in an action for "quieting of title" involving real property? The plaintiff must

- A. be in actual possession of the property.
- B. be the registered owner of the property.
- C. have legal or equitable title to the property.
- D. be the beneficial owner of the property.

Answer: C

For an action to quiet title or remove cloud to prosper, two requisites:

1. **Article 476 of NCC** - there must be an instrument, record, claim that appears to be valid *prima facie* but in truth is invalid, voidable, unenforceable.
2. **Article 477 of NCC** - the plaintiff must have legal or equitable title or interest over the property. This does not necessarily mean that the plaintiff is the registered owner or possesses the owner's certificate of title, but it can connote that he or she has title through acquisitive prescription.

**(82) The residents of a subdivision have been using an open strip of land as passage to the highway for over 30 years. The owner of that land decided, however, to close it in preparation for building his house on it. The residents protested, claiming that they became owners of the land through acquisitive prescription, having been in possession of the same in the concept of owners, publicly, peacefully, and continuously for more than 30 years. Is this claim correct?**

- A. No, the residents have not been in continuous possession of the land since they merely passed through it in going to the highway.**
- B. No, the owner did not abandon his right to the property; he merely tolerated his neighbors' use of it for passage.**
- C. Yes, residents of the subdivision have become owners by acquisitive prescription.**
- D. Yes, community ownership by prescription prevails over private claims.**

**ANSWER: A**

Under Article 540 of NCC, only possession acquired and enjoyed in the concept of an owner can ripen into ownership. There must be acts of dominion over it.

Article 523: Also, possession has two elements: (a) corpus or material holding; (b) *animus possidendi* or intent to possess.

Article 537: Acts merely tolerated do not affect possession.

Here, the residences are not exercising acts of dominion, no intent to possess, and were merely tolerated by the owner as shown in the latter's intent to close it after 30 years.

Question:

(94) An action for reconveyance of a registered piece of land may be brought against the owner appearing on the title based on a claim that the latter merely holds such title in trust for the plaintiff. The action prescribes, however, within 10 years from the registration of the deed or the date of the issuance of the certificate of title of the property as long as the trust had not been repudiated. What is the exception to this 10-year prescriptive period?

- A. When the plaintiff had no notice of the deed or the issuance of the certificate of title.
- B. When the title holder concealed the matter from the plaintiff.
- C. When fortuitous circumstances prevented the plaintiff from filing the case sooner.
- D. When the plaintiff is in possession of the property.

ANSWER: D

When can a trustor-plaintiff file an action for reconveyance against his trustee of title if 10 years has already passed from the registration of the deed?

When the trustor-plaintiff is in possession of the property

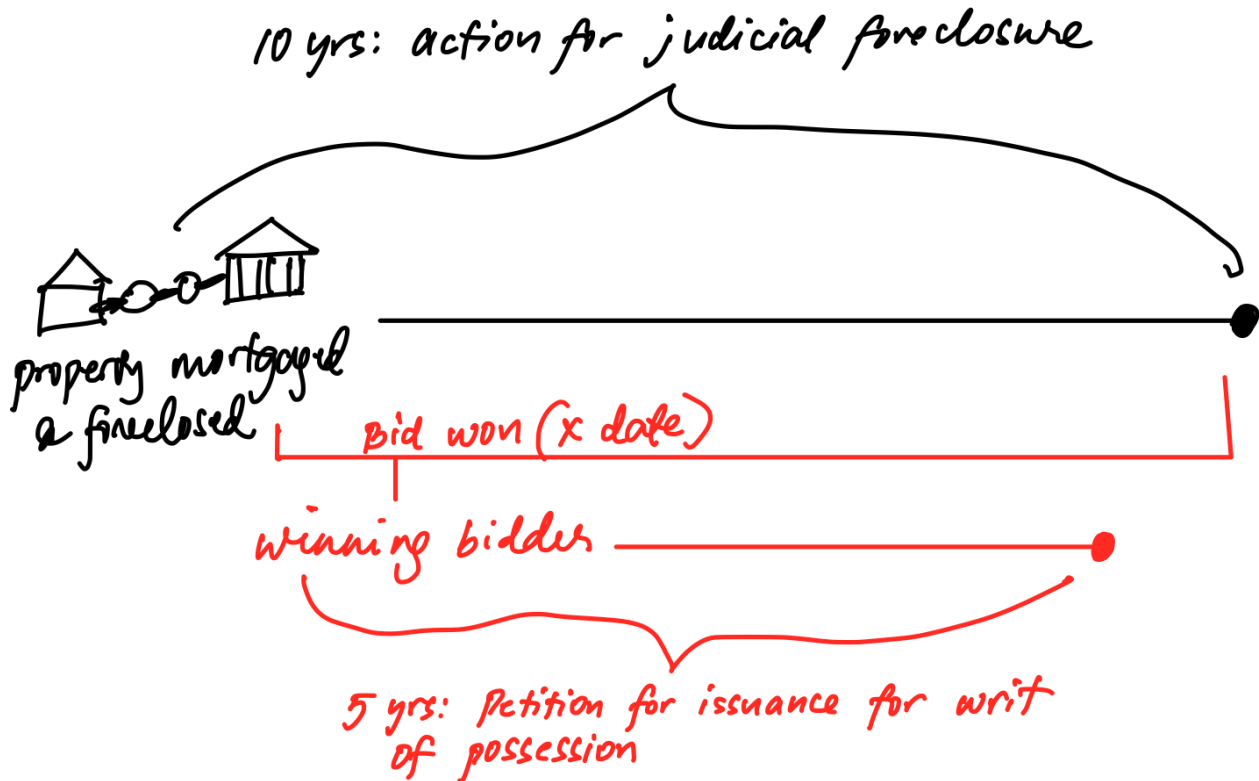
2012

### Prescription, Judicially Foreclosed Real Property Mortgage

Does the right to request for the issuance of a writ of possession over a foreclosed real property prescribe in five years?

Yes, the right to request for the issuance of a [writ of possession](#) over a foreclosed property does prescribe in five years.

## BPI vs. Icot



In the case of BPI vs. Icot. G.R. No. 168081, Dated October 12, 2009, The Supreme Court has stated that if a real property mortgaged is judicially foreclosed, the action for judicial foreclosure should be filed within a period of ten years. The request for issuance of a writ of possession should be filed upon motion of the winning bidder within five years after the judgment of foreclosure.

The writ of possession is an order commanding the sheriff to place a person named therein in possession of real property.

2013

### QUESTION:

(2013 BAR) Michael was born on 12 March 1940 in a 1000-square meter property where he grew up helping his father, Michael, cultivate the land. Michael has lived on the property since the land was opened for settlement at about the time of the Commonwealth government in 1935, but for some reason never secured any title to the property other than a tax declaration in his name. He has held the property through the years in the concept of an owner and his stay was uncontested by others. He has also conscientiously and continuously paid the realty taxes on the land. Michael died in 2000 and Manuel – as Michael's only son and heir – now wants to

secure and register title to the land in his own name. He consults you for legal advice as he wants to perfect his title to the land and secure its registration in his name.

A.) What are the laws that you need to consider in advising Manuel on how he can perfect his title and register the land in his name? Explain the relevance of these laws to your projected course of action.

1. PD 1529 Section 14(1) as amended by RA 11573 or Section 48(b) of CA 141- should be considered provided that the “opening of the land for settlement” includes an express declaration that the land has been classified as A&D and no longer reserved for public use, service or development of national wealth. The other elements such as OCEN occupation in the concept of an owner and for at **least 20 years** (under RA 11573, July 16, 2021 amendment) are already evident in the facts as Michael’s father has been cultivating and paying the taxes for the land since 1940.
2. Section 14(2) as amended by RA 11573 - that they have acquired the land through extraordinary acquisitive prescription. Provided, that the land has been classified as patrimonial land for at least 30 years at the time of prescription.

If application is based on Sec. 14(1) of PD1529, land must be A&D from...

Anytime upon the application for registration

But if application is based on Sec. 14(2) or acquisitive prescription, land must be A&D...

At the time of occupation to consider the period for acquisitive prescription

B.) What do you have to prove to secure Manuel’s objectives and what documentation is necessary?

1. That there is an express declaration by the State or by the President classifying the land as A & D at the time of the application for registration.
2. That they have been in an OCEN possession for at least 20 years (Section 14(1) of PD 1529 as amended by RA 11573 [July 16, 2021]). The evidences include: paying real property taxes, cultivation, and introducing improvements if applicable.

## 2014

Question:

On March 27, 1980, Cornelio filed an application for land registration involving a parcel of agricultural land that he had bought from Isaac identified as Lot 2716 with an area of one (1) hectare. During the trial, Cornelio maimed that he and his predecessor in interest had been in open, continuous,uninterrupted, public and adverse possession and occupation of the land for more than thirty (30) years. He likewise introduced in evidence a certification dated February 12, 1981 citing a presidential declaration to the effect that on June 14, 1980, agricultural lands of the public domain, including the subject matter of the application, were declared alienable and disposable agricultural land.

(A) If you are the judge, will you grant the application for land registration of Cornelio?

No, because when Cornelio filed, the land was not yet declared as A&D. Under Section 14(1) of PD 1529 as amended by RA 11573 (July 16, 2021), the applicant or his P.I.I must be in an OCEN possession of A&D land under bona fide claim of ownership for at least 20 years. What is required at the time of registration is that the land has been declared A&D. (Republic vs. Naguit) Here, the land was only declared A&D only after almost 3 months from the date that Cornelio filed his application for registration.

Legal basis: Applicant or PII must be in an OCEN possession of A & D land ~~since June 12, 1945 or earlier~~ for at least 20 years

~~Section 14(1) of PD 1529 and Section 48(b) of CA 141, as amended by RA 11573 (July 16, 2021) RA 11573 (July 16, 2021)~~

Legal basis: Section 14(1) of PD 1529's interpretation is that the land applied for must be A&D at the time of application for registration, and not necessarily since June 12, 1945 or earlier.

Republic vs. Naguit, Malabanan vs. Republic

(B) Can Cornelio acquire agricultural land through acquisitive prescription, whether ordinary or extraordinary?

No. Ordinary AP requires possession of 10 years in good faith or with just title. Extraordinary AP requires 30 years regardless of title. The period of counting starts from the time the land was declared not only as A&D but also patrimonial properties. The reason is that A&D lands still do not depart from the ambit of public domain, and thus not prone to prescription.

Legal basis: Only patrimonial lands can be subject to prescription

Article 1113 of NCC

How can a land become patrimonial?

There must be an express declaration by the State that the land is no longer needed for public use, service, or development of National Wealth.

Legal basis: Only lands that are private in character (e.g. patrimonial lands) are susceptible to acquisitive prescription. There must be an express State declaration that an A&D land is no longer needed for public service, use, or for national wealth.

Section 14(2) of PD 1529 vis-a-vis Article 1113 of the CC

2 kinds of acquisitive prescription, years before it transpires, and where prescription does not apply

1. Ordinary acquisitive prescription - possession in good faith for 10 years or with just title.
2. Extraordinary acquisitive prescription - possession for 30 years regardless of good faith or just title
3. Prescription does not apply to properties of public dominion

## 2015

### Question

Mr. and Mrs. Roman and Mr. and Mrs. Cruz filed an application for registration of a parcel of land which after due proceedings was granted by the RTC acting as a land registration court. However, before the decree of registration could be issued, the spouses Roman and the spouses Cruz sold the lot to Juan. In the notarized deed of sale, the sellers expressly undertook to submit the deed of sale to the land registration court so that the title to the property would be directly issued in Juan's name.

Is such a stipulation valid? (2%)

Yes.

Legal basis: After filing an application for registration, applicants may still subject, stipulate or undertake the land, in whole or in part, to certain dealings, conveyances, or encumbrances in favor of other persons, so long as it is done before the \_\_\_\_\_.

Section 22 of PD 1529, issuance of decree of registration

Distinguish a direct attack from a collateral attack on a title. (2%)

	Direct Attack	Collateral Attack
Raised for the purpose of	Pointing out the defects in the title with the prayer to invalidate it.	Not attacking the title directly, but is done while a different relief is being sought for.

If the title in Item is issued in the names of the original sellers, would a motion filed by Juan in the same case to correct or amend the title in order to reflect his name as owner be considered a collateral attack? (2%)

No. A collateral attack is applying for a relief in a different action while indirectly questioning the validity or pointing out the defects in the title.



Here, Juan does not question or attack the validity of the sellers' title. He is in fact, recognizing them and appealing that the court recognize his subsequent right as a purchaser. Moreover, he is not applying for relief in a different action.

## 2016

### Question

Joven and Juliana are the owners of a 30-hectare plantation in Cotabato, covered by a title. One day, a group of armed men forcibly entered their house and, at gunpoint, forced them to sign a Deed of Absolute Sale in favor of Romeo. Romeo got the title from them and they were ejected from the house and threatened not to come back or else they will be killed. The spouses went to Manila and resided there for more than 35 years. They never went back to Cotabato for fear of their lives. Word came to them that peace and order have been restored in their former place of residence and they decided to reclaim their land for the benefit of their grandchildren: Joven and Juliana filed a suit for reconveyance of their property. This was opposed by the grandson of Romeo to whom the title was eventually transferred, on the ground of laches and prescription. Decide the case and rule on the defenses of laches and prescription. Explain your answer. (5%)

Legal basis: No title, in derogation of the registered owner's title, can be acquired through prescription or adverse possession.

Section 47 PD 1529

The right to recover is imprescriptible if owner is registered under Torrens system because

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Possession is a mere consequence of ownership (Republic vs. Mendoza)

Laches cannot be setup if there is no unreasonable delay. An example is..

...when the registered owners were coerced or intimidated by the defendant to sign the deed. In this case, the delay to institute a claim is reasonable because of the death threat to someone's life.

On February 28, 1998, Arthur filed an application for registration of title of a lot in Ternate, Cavite before the Regional Trial Court of Naic, Cavite under Section 48(6) of Commonwealth Act No. 141 (CA 141) for judicial confirmation of imperfect title. Section 48(b) of CA 147 requires possession counted from June 12, 1945. Arthur presented testimonial and documentary evidence that his possession and that of his predecessors-in interest started in 1936. The lot was declared alienable and disposable (A and D) in 1993 based on a PENRO certification and a certified true copy of the original classification made by the DENR Secretary. The government opposed the application on the ground that the lot was certified A and D only in 1993 while the application was instituted only in 1998. Arthur's possession of five (5) years from the date of declaration does not comply with the 30-year period required under CA 141. Should the

possession of Arthur be reckoned from the date when the lot was declared A and D or from the date of actual possession of the applicant? Explain. (5%)

Legal basis: From “possession for 30 years” to “possession of applicant or PII since June 12, 1945 or earlier” to “at least 20 years”

CA 141 Section 48(b) as amended by RA 11573

Legal basis: Classification to A&D is a requisite before application for registration, but the counting of the period shall include actual possession even before the classification.

Malabanan vs. Republic

### Question

Macario bought a titled lot from Ramon, got the title and took possession of the lot. Since Macario did not have the money to pay the taxes, fees and registration expenses, he was not able to register the Deed of Absolute Sale. Upon advice, he merely executed an Affidavit of Adverse Claim and had it annotated at the back of the title. A few years after, he received a Notice of Levy on Attachment and Writ of Execution in favor of Alex. The notice, writ and certificate of sale were annotated at the back of the title still in Ramon’s name. Alex contends that since the Affidavit of Adverse Claim is effective only for 30 days from the date of its registration, then its validity has expired. Macario posits that the annotation of his adverse claim is notice to the whole world of his purchase of the lot in question. Who has the superior right over the disputed property—Macario or Alex? Explain. (5%)

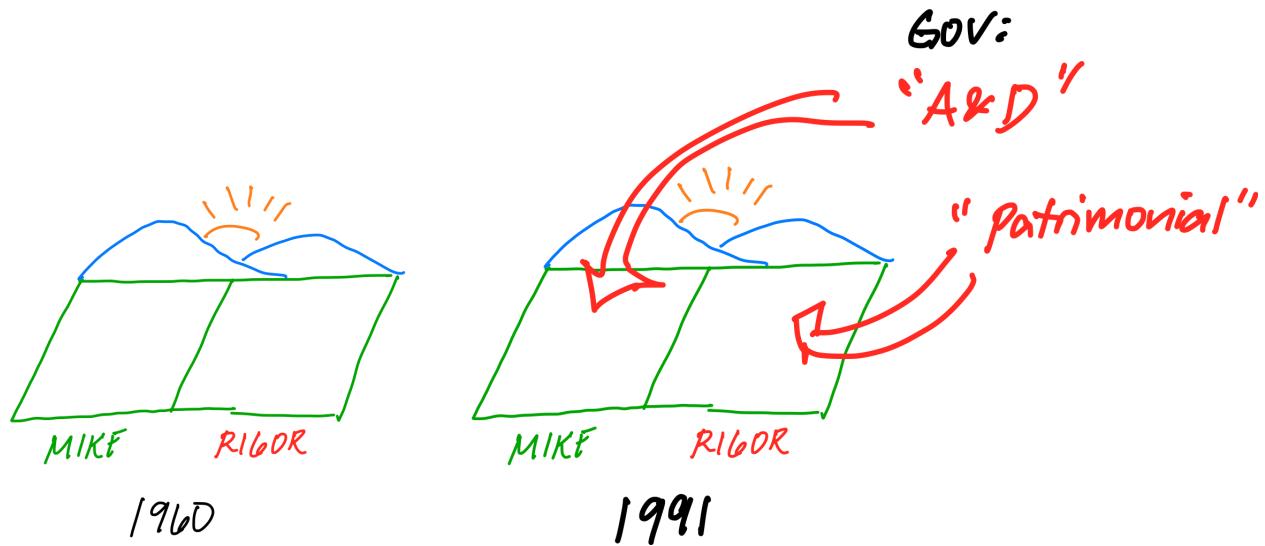
What should reasonably put Alex into question and serve as constructive notice?

The Annotation of Adverse Claim in favor of Macario, coupled with the latter’s possession of the disputed property

Legal basis: The annotation of adverse claim does not *ipso facto* lose its effectivity after 30 days. An independent action is still necessary.

Sajonas vs. CA

2017



In 1960, Rigor and Mike occupied two separate but adjacent tracts of land in Mindoro. Rigor's tract was classified as timber land while Mike's was classified as agricultural land. Each of them fenced and cultivated his own tract continuously for 30 years. In 1991, the Government declared the land occupied by Mike as alienable and disposable, and the one cultivated by Rigor as no longer intended for public use or public service. Rigor and Mike now come to you today for legal advice in asserting their right of ownership of their respective lands based on their long possession and occupation since 1960.

A.) What are the legal consequences of the 1991 declarations of the Government respecting the lands? Explain your answer. (2%)

Can Mike register his land when the Government declared it as A&D in 1991? + Legal basis

No. The classification by the government as A&D does not change the land's status as property of public dominion. There must be an express declaration by the State that such land is already patrimonial (no longer intended for public use, service, national wealth) - Heirs of Malabanan vs. Republic

Can Rigor register his land when the Government declared that "it is no longer intended for public use or service"?

Yes. Such an act by the government removed the land from the ambit of public dominion and converted it into a patrimonial land. **Requirements for the "government's act"**? The declaration must be made by Congress in the form of a statute or by a Presidential proclamation where the President is authorized by law to that effect. - Heirs of Malabanan vs. Republic

B.) Given that, according to Section 48(b) of Commonwealth Act No. 141, in relation to Section 14(1) of Presidential Decree No. 1529, the open, continuous, exclusive, and notorious possession and occupation of alienable and disposable lands of the public domain as basis for judicial confirmation of imperfect title must be from June 12, 1945, or earlier, may Mike nevertheless validly base his assertion of the right of ownership on prescription under the Civil Code? Explain your answer. (4%)

No, because for acquisitive prescription to prosper, the land must not only be declared A&D, but also “no longer intended for public use, service, or development of national wealth” or as a patrimonial property. (Section 14[2] of PD 1529 and Article 1113 of NCC) Here, Mike’s land was only classified as A&D in 1991. The land was never removed from the ambit of public domain, and no prescription can run over such lands.

Legal basis: The properties of the State that are not patrimonial in character are not subject to prescription

Article 1113 NCC

C.) Does Rigor have legal basis for his application for judicial confirmation of imperfect title based on prescription as defined by the Civil Code given that, like Mike, his open, continuous, exclusive, and notorious possession and occupation was not since June 12, 1945, or earlier, and his tract of land was timber land until the declaration in 1991? Explain your answer. (4%)

Yes, Rigor has legal basis to apply for registration over his land. His legal basis is only extraordinary acquisitive prescription which requires at least 30 years possession of patrimonial property regardless of good faith or title. Under Article 1113, acquisitive prescription only runs against the properties of the State which are patrimonial in character.

When the government declared his land as patrimonial, there is a total of 30 years if we count until 2022. Rigor possessed the land for a total of 31 years. He also exercised acts of dominion such as “fencing and cultivation” since 1960. There is no showing that he discontinued such exercises. Therefore, he acquired the land through extraordinary acquisitive prescription.

Ordinary acquisitive prescription requires possession in good faith and with just title. In 1960, it was classified as timber land therefore Rigor was in bad faith. However, when it was declared patrimonial in 1991, the period of prescription started and as early as 2001, Rigor has already acquired it by ordinary acquisitive prescription. (Heirs of Malabanan vs. Republic)

Legal basis: Prescription only runs against the State’s patrimonial properties

Article 1113 of NCC

## 2018

### ADVERSE CLAIM

Socorro is the registered owner of Lot A while Segunda is the registered owner of the adjoining Lot B. Lot A is located at an elevated plateau of about 15 feet above the level of Lot B. Since Socorro was allegedly removing portions of the land and cement that supported the adjoining property, Segunda caused the annotation of an adverse claim against 50 sq. m. on Lot A's Transfer Certificate of Title, asserting the existence of a legal easement.

(b) If a legal easement does in fact exist, is an annotation of an adverse claim on the title of the servient estate proper? + Legal basis

No. If a legal easement does in fact exist, the annotation of an adverse claim on the title of the servient estate is no longer necessary because the legal easement exists whether or not it is annotated in the registry. - Castro vs. Monsod

Legal basis: Legal easements no need to be annotated as adverse claim

Castro vs. Monsod

What is required in the annotation of adverse claim that is not existing in legal easements?

A claim of title or interest over the registered land of the defendant. In this case, Segunda has no claim or interest over Socorro's land, only over the adjoining land. Therefore, annotation of adverse claim is not proper.

What should the dominant estate (entitled to lateral and subjacent support) do to bind the property, owner, and succ of the elevated estate/servient estate?essors

File a petition for judicial recognition of legal easement (Castro vs. Monsod)

## 2019

Actions after registration; Action for reconveyance

**In 2015, O, the original registered owner of a 300-square meter property covered by Original Certificate of Title (OCT) No. D-1234, appointed F as its caretaker. A year after, while O was abroad, F surreptitiously broke open O's safe and stole the duplicate copy of the said OCT. F then forged a Deed of Absolute Sale and made it appear that O sold the property to him. Consequently, F was able to have OCT No. 0-1234 cancelled and in lieu thereof, a new title, Transfer Certificate of Title (TCT) No. T-4321, was issued in his name.**

**A few months after, F offered the property for sale to X. After conducting the required due diligence to verify the title of F, and finding no occupant in the property during ocular inspection, X signed the contract of sale, and thereupon, fully paid the purchase price. A few days later, X was able to obtain TCT No. T-5678 under his name.**

**When O discovered F's fraudulent acts upon his return in 2017, O immediately filed a complaint for reconveyance against F and X, principally pointing out that F merely forged his signature in the Deed of Absolute Sale purportedly made in F's favor and thus, F could not have validly transferred the title thereof to X. Consequently, he sought the return of the subject property to him.**

A.) Will the prayer of O for the return of the subject property prosper? Explain. (3%)

No.

Legal basis: Only the encumbrances noted on the certificate of title shall bind the applicant and every subsequent purchaser of registered land who buys the land in good faith

Section 39 of Act 496 (Land Registration Act)

What are the requirements to be considered as a buy in good faith?

- Relied on the face of the certificate of title
- Lack of knowledge that will put a reasonable man in inquiry or an existence of a prior right
- Exercised due diligence

B.) Assuming that O could no longer recover the subject property in view of X's registration thereof in his name, may a claim against the Assurance Fund pursuant to the provisions of the Property Registration Decree be instituted? Explain. (3%)

Yes.

Legal basis: Any person deprived of title or interest in land because of Torrens system without negligence on his part, may bring an action against the Assurance Fund.

Section 95 of PDF 1529 or PRD