date of filing the complaint, should be considered because the right to compensation of the employee or his dependents begins from the very moment of the accident.

HELD: True, the right arises from the moment of the accident, but such right must be declared or confirmed by the government agency empowered by law to make the declaration. And that agency in this case is the Workmen's Compensation Commission which, from June 20, 1952, has been conferred exclusive jurisdiction to hear and decide claims for compensation.

Appellants further argued that R. A. No. 772 should not be enforced as to accidents occurring before its approval, because it had introduced changes affecting vested rights. It might be admitted that changes as to substantive rights would not govern such "previous" accidents. But here we are dealing with remedies and jurisdiction which the Legislature has power to determine and apportion. (CASTRO ET AL. *vs.* SAGALES, 50 O. G. 94.)

LAND REGISTRATION

LEGAL INCIDENTS TO REGISTRATION

Fraud in application for land registration; Sec. 38, P. A. No. 496 construed.

FACTS: On March 14, 1945, Manipon filed an application for the registration of a parcel of land. The Director of Lands opposed it, alleging that the land was part of the public domain and belonged to the Government. The court's decision and the corresponding decree were issued in Manipon's favor.

On May 26, 1947, the Solicitor-General of the Philippines, in behalf of the Government of the U. S., filed a petition for review of the decree under Sec. 38, Public Act No. 496, alleging that the land in question was part of the U. S. military reservation known as Clark Field Airforce Base, and that the registration had been obtained through fraud because Manipon had intentionally failed to inform the court of this fact.

HELD: The decree of registration entered in Manipon's name should be set aside. Manipon's contention that the U. S. Government cannot take and keed land which he claims has been in his peaceful, public, continuous and adverse possession for at least fifty years, does not hold. The case of *Gov't. of the U. S. vs. CFI of Pampanga, 50 Phil. 976* is decisively against Manipon's contention in both legal and factual aspects. The notable feature of the present case which tends to lend weight to the charge of fraud is that Manipon's plan had been drawn and approved as early as 1932, but his application was not filed until the rightful occupants had been driven away, albeit temporarily, from the country. (MANIPON ET AL. *vs.* GOVERNMENT OF THE U. S., G. R. No. L-4582, March 26, 1953.)

When an opposition has the effect of a petition for review.

FACTS: Merquiala, predecessor in interest of petitioners,

purchased in 1925 a parcel of land known as Lot No. 3076 from Redullas. Meanwhile, when cadastral proceedings were instituted, Gonzales, predecessor in interest of respondents, applied for the registration of a parcel of land bought by him from Redullas also. Instead, however, of referring to it as Lot No. 3120, which was the land he had purchased, Gonzales erroneously designated it as Lot No. 3076. Redulla filed his opposition to this application, but on being assured by Gonzales that the latter was applying for Lot No. 3120, Redulla withdrew the opposition. Actually, however, Gonzales went on to apply for Lot No. 3076.

Meanwhile, Merquiala did not file his answer to the application of Gonzales, because it had been his understanding with Redulla that the latter would file the same and secure the corresponding title on Lot No. 3076 in Merquiala's name. In 1941 a decision was rendered adjudicating Lot No. 3076 to Gonzales. Because Merquiala had not been given any notice of said decision, he was not able to file a motion for its reconsideration within the period prescribed by law. In 1952, after a lapse of eleven years from the rendition of the judgment, the heirs of Gonzales filed a motion for the issuance of a writ of possession. Petitioners filed, in turn, a written opposition which was overruled.

HELD: Although the cadastral court's decision of 1941 had already become final, no final decree has so far been issued by the General Land Registration Office as required by law. Such being the case, petitioners could still ask for a review of that decision on the ground of fraud. And, as a matter of fact, the written opposition interposed by them to the issuance of the writ of possession, wherein they asked for the setting aside of the original decision and set forth facts constituting fraud, had the effect of a petition for review, which should have been entertained to give them an opportunity to prove their title to the property. (MERQUIALA ET AL. *vs.* YBAÑEZ ET AL., G. R. No. L-6103, April 17, 1953.)

Remedy provided for in Sec. 112 of Act 496 not available when controversial issue is involved.

FACTS: The government in 1933 procured the annotation of a writ of execution in its favor and against Rebolledo on the back of the certificate of title to land of which the latter was a co-owner. Said writ has as yet not been enforced and

petitioners, who purchased the land from Rebolledo pursuant to Sec. 112 of Public Act 496, filed the present petition to cancel the above encumbrance on the ground that the right of the government had prescribed. The provincial fiscal opposed the petition, contending that prescription does not run against the government. The lower court held it had no jurisdiction to order the cancellation because such was within the exclusive jurisdiction of the court that had issued the writ. Did the lower court lack jurisdiction?

HELD: The lower court lacked jurisdiction for the simple reason that the present petition involves a controversial issue. While Sec. 112 authorizes a person in interest to ask the court for any erasure, alteration, or amendment of a certificate of title "upon the ground that registered interests of any description . . . have terminated and ceased," such relief can only be granted if there is unanimity among the parties, or there is no adverse claim or serious objection on the part of any party in interest; otherwise the case becomes controversial and should be decided in an ordinary case or in the case where the incident properly belongs.

However, the transfer of this land to the petitioners may be given course without need of giving a bond to safeguard the interest of the government, provided the new certificate issued in the name of the vendees be similarly annotated on the back thereof. (*In Re Original Certificate of Title No. 9758 of Register of Deeds of Nueva Ecija.* TANGUNAN ET AL. *vs.* REPUBLIC, 50 O. G. 115.)

Certificate of title issued by mistake to another instead of to rightful party cannot, after thirty years, be recalled; Remedy therefor.

FACTS: In 1912 the now defunct Court of Land Registration confirmed the title of the Government of the Philippine Islands to a parcel of land. The decision was affirmed in 1917 by the Supreme Court. Both the decree and the certificate of title were issued in 1922, but not in the name of the Government. It was issued instead in the name of the Municipality of Malabon, in whose territory the land was located.

Alleging that the substitution of the Municipality of Malabon for the Government had been due to a clerical error, the

Director of Lands in 1949 petitioned the CFI to order (1) the municipality to surrender the above-mentioned certificate of title to the Register of Deeds; and (2) the Register of Deeds to issue a new one to the Republic of the Philippines. Petition was granted and appeal taken therefrom.

HELD: In consonance with the universally recognized principles which underlie Public Act No. 496, the court may not, even if it was convinced that a clerical mistake had been committed, recall a certificate of title after a lapse of 30 years from the date of its issuance against the vigorous objection of its holder. As held in *Gov't. vs. Judge, 57 Phil. 500*, "To hold that the substitution of the name of a person, by subsequent decree, for the name of another person to whom a certificate of title was issued (five years before) in pursuance of a decree, effects only a correction of a clerical error, and that the court had jurisdiction to do it, requires a greater stretch of the imagination than is permissible in a court of justice."

The sole remedy of a land owner whose property has been wrongfully or erroneously registered in another's name is, one year after issuance of the decree, not to set it aside, as was done here, but, respecting the decree as incontrovertible and no longer open to review, to bring an ordinary action in court for reconveyance or, if the property has passed to an innocent purchaser for value, for damages. (DIRECTOR OF LANDS *vs.* REGISTER OF DEEDS OF RIZAL, G. R. No. L-4463, March 24, 1953.)

Adjudication of land in cadastral proceeding becomes final only after one year from entry of final decree.

FACTS: On April 29, 1921, the CFI of Mindoro, acting as cadastral court, adjudicated Lot No. 768 to Victoriano, Felix and Agustin Capio, in equal parts. The final decree for said lot was not issued until November 1, 1949. On January 7, 1947, prior to the issuance of the decree, but 26 years after the decision adjudicating the lot to the three brothers, one of them, Victoriano, asked for the reopening of the cadastral case on the ground that Lot No. 768 had been claimed only by himself during the cadastral hearing and therefore should have of Felix Capio, opposed said petition but the CFI ordered the been adjudicated to himself alone. Fernando Capio, only heir

reopening. A motion for reconsideration by Fernando Capio was denied. At the hearing of this motion, movant did not appear and Victoriano was allowed to present evidence on the basis of which the lower court held there was no need of another hearing to determine the ownership of the lot in question. Fernando Capio appealed.

HELD: The adjudication of land in a registration or cadastral case becomes final and incontrovertible only upon the expiration of one year from the entry of the final decree. As long as the final decree is not issued and the one year period for review has not elapsed, the decision remains under the control and sound discretion of the court rendering the decree, which court after hearing, may set aside the decision or decree and adjudicate the land to another party. In the present case, the petition for review was filed before the final decree had been issued.

However the lower court was not justified in declaring there was no further need for a hearing as to the ownership of the lot merely because at the hearing for the motion for reconsideration Victoriano Capio had presented evidence. The latter hearing was held only in connection with the motion for reconsideration and not to determine ownership. (CAPIO *vs.* CAPIO, 50 O. G. 137.)

Jurisdiction of courts over Public Lands.

FACTS: The Canas Plantation Co. purchased from the Government, by sales application and award, a parcel of public land. The sales patent and certificate of title, issued by virtue of such purchase, contained two restrictions. This petition was submitted to the CFI for the cancellation of said two restrictions. The Forestry Bureau objected to the jurisdiction of the court over the subject-matter, contending that the land involved was a portion of the public domain.

HELD: After the patent and the certificate of title had been issued, the lot ceased to be a portion of the lands of the public domain under the exclusive administration of the Department of Agriculture and the Government. Even if the land had not entirely become private property, still the petitioner acquired some rights which the courts might protect. (CANAS PLANTATION CO. *vs.* BUREAU OF FORESTRY, G. R. No. L-5159, Jan. 30, 1953.)

Assurance Fund; Where the Register of Deeds has not committed any misfeasance, the assurance fund is not liable.

FACTS: Plaintiff seeks to recover damages from the assurance fund on the ground that the Register of Deeds committed a misfeasance in issuing in favor of Sycip a new certificate of title on the strength of the deed of sale issued by the Enemy Property Custodian (EPC) of the Imperial Japanese Army without first requiring the production of the owner's duplicate certificate of title.

HELD: It appearing that the Register of Deeds has not committed any misfeasance in office, but rather has complied with his duty in connection with the registration of land belonging to enemy aliens as provided for in Executive Order No. 222 of the Chairman of the Executive Commission, the claim of plaintiff that the assurance fund should be held answerable for the loss sustained by it must fail. (BAY BOULEVARD SUBDIVISION, INC. *vs.* SYCIP ET AL., G. R. No. L-5041, Jan. 27, 1953.)

Cancellation of original certificate of title.

FACTS: Vogel was declared owner of the land. The special administrator sold the land to Lohman, who subsequently sold it to Moldero. Sale to Lohman was evidenced by a T.C.T. But when Moldero sought to have the land registered, the Register of Deeds refused because the O.C.T. had not been canceled. Moldero filed a petition for cancellation in the CFI. Two heirs of Vogel filed a petition for relief from the order granting cancellation, on the ground that there had been no notice to them and that the CFI had no jurisdiction because it was not the court which had issued the decree of registration.

HELD: Petition for relief from order denied. The heirs were not entitled to notice of the petition because (1) it was merely for the correction of an oversight by the Register of Deeds, and (2) they were not parties to the original case. (VOGEL ET AL. *vs.* MOLDERO, G. R. No. L-4972, Sept. 25, 1953.)

To amend a certificate of title, action must be brought in the original case where decree of registration was entered.

FACTS: The Furukawa Plantation Co., a Philippine corporation, was the registered owner of a large tract of land. As a result of the last war, the President of the Philippines ordered the NAFCO to administer said lands, pending their distribution to Filipino war veterans. Plaintiffs claimed that they owned 31.79 hectares of this land, and that defendant, through fraud and strategy, included the land in question in its certificate of title, though acknowledging plaintiff's right thereto by a general annotation on the certificate: "Except those herein noted as belonging to other persons." Plaintiffs sought to have their names inscribed in defendant's certificate as owners of the land by invoking the remedy provided for in Rule 66, Rules of Court (Declaratory Relief).

HELD: Plaintiffs seek a remedy that can be granted only under the Land Registration Act and which is, therefore, not within the scope of Rule 66. If plaintiffs' cause of action is to succeed, it must be formulated by a proper petition in the original case where the decree of registration was entered in and with notice to all persons whose rights may be affected by the amendment of the certificate of title. (ACUÑA ET AL. *vs.* FURUKAWA PLANTATION CO., G. R. No. L-5833, Oct. 22, 1953.)

Reconstitution and reconstruction of certificate of title denotes restoration of instrument supposedly lost.

FACTS: This is an appeal from a decision denying appellant's motion for reconstitution of a certificate of title, filed in cadastral proceedings. Appellant sought the registration and reissuance of a new certificate of title in her name in lieu of that registered in the name of the oppositor, who claimed title to the land by virtue of a deed of sale.

HELD: Reconstitution under the law implies loss of a duly registered certificate. Since appellant's certificate was never extant, and this is attested to by the annotation in the Register of Deed's office as to the existence of the certificate together with the number thereof, the only remedy open to appellant is an ordinary action to determine ownership. (ANCIANO *vs.* CABALLES, G. R. No. L-5040, Sept. 29, 1953.)

Land should be registered in name of purchaser in a foreclosure, subject to redemption by a purchaser subsequent to constitution of mortgage.

FACTS: This is an action for the registration of a parcel of land bought by the applicant Santiago from San Diego; the

sale was recorded in accordance with Sec. 194, Revised Administrative Code, as amended. It turned out, however, that prior to the sale, San Diego had mortgaged the land, and as the mortgage was registered, it had precedence over the sale. As the mortgage debt was not paid, the mortgagee had the mortgage foreclosed and the land sold at public auction to satisfy the judgment. The land was adjudicated to Dionisio, the highest bidder. Santiago was not made a party to the foreclosure proceedings. The question here is whether the land should be registered in the name of Santiago, but subject to the mortgage, or in the name of Dionisio, subject to redemption by Santiago?

HELD: Our preference is for the second method. This, in fact, is the proper solution, for registration of the land in the name of Santiago, who does not become its owner until she has exercised her right to redeem, would be subject to the objection that it is premature, if not altogether anomalous. Her equity of redemption is, of course, registerable, but only as an incumbrance on a registered title of ownership. (SANTIAGO *vs.* DIONISIO, G. R. No. L-4008, Jan. 15, 1953.)

PUBLIC LAND LAW

Homestead; Alienation in favor of a joint tenant not a violation of Sec. 21, Public Act No. 2874.

FACTS: Sahagun applied in 1917 for a homestead of twelve hectares, two hectares of which were cleared and occupied by Gawiran up to the time of this suit in 1947. It had been understood between the two that the part cleared and occupied by Gawiran was ultimately to be deeded to him. In 1928 title to the homestead was issued in the name of Sahagun. In 1930 Sahagun and his wife executed a deed, giving Gawiran ownership over the two hectares.

The issue here is whether the conveyance of the two hectares which formed part of the homestead granted to Sahagun, was violative of Sec. 21, Public Act No. 2874, prohibiting alienation of all or part of the homestead, from the date of application, and for a period of five years from the date of issuance of the patent or grant.

HELD: There was no violation of Sec. 21, because this is a case of joint tenancy. Both Sahagun and Gawiran occupied,

cleared and cultivated the homestead applied for by Sahagun. It was not, therefore, an alienation within the prohibited period, because the joint tenancy came into existence even before the filing of the application, the approval thereof, and the issuance of the grant or patent. It would be unfair to Gawiran for Sahagun not to fulfill their verbal contract, confirmed by the document executed in 1930.

The only way to prevent enforcement of Gawiran's right is by administrative action by the Director of Lands, who can cancel the concession title that was granted, on the ground that the material facts set out in the application were not true, viz., that the application was made "for the exclusive benefit of the applicant and not, either directly or indirectly, for the benefit of any other person or persons." Otherwise, nothing can prevent Gawiran from enforcing the fulfillment of the verbal contract. (GAWIRAN *vs.* SAHAGUN, G. R. No. L-4645, May 29, 1953.)

When time before land acquired for homestead may be alienated commences; Sec. 116, P. A. No. 2874, as amended by P. A. No. 3517, construed.

The term of five years within which lands acquired under the free patent or homestead provisions cannot be encumbered or alienated, is to be counted from the date of issuance of the patent or grant, and not from the date of registration thereof in the office of the Register of Deeds. (CRISANTE ET AL. *vs.* TAJON ET AL., G. R. No. L-4455, May 22, 1953.)