

<sup>44</sup> *Ibid.*, p. 251.

<sup>45</sup> *Ibid.*, p. 277.

<sup>46</sup> *Ibid.*, pp. 251, 252

<sup>47</sup> *Ibid.*, p. 252.

<sup>48</sup> *Ibid.*, p. 256.

<sup>49</sup> *Ibid.*, p. 257.

<sup>50</sup> *Ibid.*,

<sup>51</sup> *Ibid.*, p. 271.

<sup>52</sup> *Ibid.*

<sup>53</sup> *Ibid.*, pp. 273-274.

<sup>54</sup> *Ibid.*, pp. 272-273.

<sup>55</sup> *Introduction to Criminal Justice*, supra, p. 311.

<sup>56</sup> "Let Us Today Build the Bridges of Tomorrow," Fred Ruiz Castro, March 17, 1978, Philippines, p. 3.

<sup>57</sup> "The Criminal Justice System," supra p. 666.

<sup>58</sup> *The American System of Criminal Justice*, supra, p. 455.

<sup>59</sup> *Introduction to Criminal Justice*, supra, p. 311.

<sup>60</sup> *Ibid.*

<sup>61</sup> "Law and the Lawyer in a Changing Society," Fred Ruiz Castro, March 4, 1978, Philippines, p. 12.

<sup>62</sup> "The Criminal Justice System," supra p. 666.

<sup>63</sup> *Process and Impact of Justice*, supra, pp. 35-36.

<sup>64</sup> *Introduction to Criminal Justice*, supra, p. 317.

<sup>65</sup> *Ibid.*, p. 318

<sup>66</sup> *Ibid.*

<sup>67</sup> *Ibid.*

<sup>68</sup> *Ibid.* p. 328

<sup>69</sup> *Process and Impact of Justice*, supra, p. 37

<sup>70</sup> *Foundations of Law Enforcement and Criminal Justice* supra, pp. 232-233.

<sup>71</sup> *Introduction to Criminal Justice*, supra, p. 40.

<sup>72</sup> *Ibid.*, p. 13.

## LAND AS THE HERITAGE OF THE FILIPINOS

Jacinto D. Jimenez\*

The nationalization of land looms as one of the most controversial issues in Philippine law. The clashing opinions of the justices of the Supreme Court in cases involving this question is indicative of this. While there is no quarrel that land should be preserved as the exclusive patrimony of the Filipino people, disputes have arisen regarding the scope of the nationalization of land.

### I. The Nationalization of Land.

It was the 1935 Constitution that first implanted the nationalization of land in Philippine law. Section 5, Article XIII of the 1935 Constitution provided:

"Save in cases of hereditary succession, no private agricultural land shall be transferred or assigned except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain in the Philippines."

Section 1, Article XIII of the 1935 Constitution read in part:

"All agricultural, timber, and mineral lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, and other natural resources of the Philippines belong to the State, and their disposition, exploitation, development, or utilization shall be limited to citizens of the Philippines, or to corporations or associations at least sixty per centum of the capital of which is owned by such citizens, subject to any existing right, grant, lease, or concession at the time of the inauguration of the Government established under this Constitution."

Thus, while Section 1, Article XIII of the 1935 Constitution limited the right to acquire public land to Filipino citizens and corporations or associations at least sixty per cent (60%) of the capital of which is owned by Filipino citizens, Section 5, Article XIII of the 1935 Constitution extended such policy to private agricultural lands.

### A. Philosophy behind the Nationalization

To justify the nationalization of land, the Report of the Committee on Nationalization and Preservation of Lands and Natural Resources pointed out:

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"International complications have often resulted from the existence of alien ownership of land and natural resources in a weak country. Because of this danger, it is best that aliens should be restricted in the acquisition of land and other natural resources. An example is afforded by the case of Texas. This state was originally a province of Mexico. In order to secure its rapid settlement, and development, the Mexican government offered free hand to settlers in Texas. Americans responded more rapidly than the Mexicans, and soon they organized a revolt against Mexican rule, and then secured annexation to the United States. A new increase of alien landholding in Mexico has brought about a desire to prevent a repetition of the Texas affair. Accordingly, the Mexican constitution of 1917 contains serious limitations on the right of aliens to hold lands and mines in Mexico. The Filipinos should profit from this example."

Along the same lines, Delegate Jose Aruego noted:

"The nationalization of the natural resources of the country was intended (1) to insure their conservation for Filipino posterity; (2) to serve as an instrument of national defense, helping prevent the extension into the country of foreign control through peaceful economic penetration; and (3) to prevent making the Philippines a source of international conflicts and the consequent danger to its internal security and independence."<sup>1</sup>

#### B. Respect for Vested Rights

Before the effectivity of the 1935 Constitution upon the inauguration of the Commonwealth of the Philippines on November 15, 1935, aliens could acquire land in the Philippines.<sup>2</sup> Since the sale of land before November 15, 1935 to an alien buyer was valid, the foreign buyer could continue owning the land after the effectivity of the 1935 Constitution. His ownership was a vested right that was respected by the 1935 Constitution. The nationalization of land by the 1935 Constitution did not apply retroactively.<sup>3</sup>

The Supreme Court explained this ruling as follows:

*"Declaramos que la prohibicion no alcanza al demandado porque el articulo 5, Titulo XIII de la Constitucion no tiene efecto retroactivo. Habiendose hecho dueño el demandado de los terrenos con anterioridad al 15 de noviembre de 1935, fecha en que entro en vigor la Constitucion, los derechos que adquirio en tal concepto no pueden ser despojados porque pugnancia con el precepto del articulo 1 (1), Titulo III, de la Constitucion, que dispone que nadie deba ser privado de su propiedad sin el debido proceso de ley."*<sup>4</sup>

If a parcel of land was sold to an alien before November 15, 1935, the sale can be registered even after that date, for the sale conferred a vested right upon the alien buyer.<sup>5</sup>

A foreigner who acquired a parcel of land before November 15, 1935 and sold it with the right of redemption can repurchase it after that date. The right of redemption is a right which existed before the effectivity of the 1935 Constitution, and the repurchase is not a transfer or assignment to an alien within the meaning of the constitutional prohibition.<sup>6</sup> The buyer and the seller may agree to extend the period of redemption. The extension is a mere continuation of the right of redemption.<sup>7</sup>

Likewise, a foreigner may redeem a parcel of land which he acquired before November 15, 1935 and was sold at public auction for tax delinquency. The right

of redemption is an incident of his ownership. The public auction did not immediately divest him of his rights.<sup>8</sup>

The sale to a foreigner of a parcel of land before November 15, 1935 subject to the right of redemption must be respected even if the right of redemption expired after that date. The sale transferred ownership to the foreign buyer subject only to the resolutive condition that the seller redeem the property seasonably.<sup>9</sup>

Since under Subsection (17), Section 1 of the Ordinance appended to the 1935 Constitution citizens and corporations of the United States enjoyed all the civil rights of the citizens and corporations of the Philippines pending the withdrawal of American sovereignty on July 4, 1946 and since under Subsection (1), Section 1, Article XVII of the 1935 Constitution, all existing property rights of citizens and corporations of the United States should be respected to the same extent as those of Filipino citizens, an American who acquired a parcel of land before July 4, 1946 can apply to register it under the Torrens system even after July 4, 1946.<sup>10</sup>

However, the prohibition against the acquisition of lands by aliens applies to exchanges of land. An alien who acquired a parcel of land before November 15, 1935 cannot exchange it for another parcel of land after that date. Otherwise, he would be acquiring land after the effectivity of the prohibition.<sup>11</sup>

#### C. Questions of Citizenship

A Filipino, who acquires a parcel of land and later on loses his Filipino citizenship, does not lose his ownership over the land. The Constitution requires the owner to be a Filipino citizen at the time of the acquisition of the land but does not require that he continue being a Filipino citizen to retain ownership of the land.<sup>12</sup>

However, a buyer who was a Filipino citizen at the time that he signed the contract to sell a parcel of land but had become a foreign citizen at the time he paid the last installment, cannot acquire the land.<sup>13</sup>

A foreign father can buy a parcel of land for his Filipino children or give them money to buy a parcel of land if it was done in good faith. It is the Filipino children who will acquire the land, and they are qualified to own land.<sup>14</sup>

While a Filipino citizen who became a foreign citizen may retain ownership of a parcel of land he acquired while he was still a Filipino citizen, it does not seem that this same rule can apply to a corporation. Acquisition of foreign citizenship usually involves a cumbersome process. In the case of a corporation, however, the nationality of the controlling interest of a corporation can easily be changed by the assignment of the shares of stock to foreign stockholders. To rule that a corporation sixty per cent (60%) of whose capital was owned by Filipino citizens at the time of its acquisition of a piece of land can continue owning the land after the sale of the shares to foreigners will result in facilitating the circumvention of the Constitution by the simple expedient of organizing a corporation with the use of dummies.

A long chain of intervening corporations with the last being owned by Filipino citizens cannot acquire land. The ownership of a corporation cannot be traced *ad infinitum* to determine whether or not sixty per cent (60%) of its capital is owned by Filipino citizens.<sup>15</sup>

However, the Supreme Court has held that a foreign Catholic bishop incorporated as a corporation sole may have a piece of land sold to the corporation sole registered if sixty per cent (60%) of the Catholics within his diocese are Filipino citizens. The Supreme Court reasoned out:

"Considering that nowhere can we find any provision conferring ownership of church properties on the Pope although he appears to be the supreme administrator or guardian of his flock, nor on the corporation sole or heads of dioceses as they are admittedly mere *administrators* of said properties, ownership of these temporalities logically fall and devolve upon the church diocese or congregation acquiring the same."<sup>16</sup>

The Supreme Court added:

"It can be also maintained without fear of being gainsaid that the Roman Catholic Apostolic Church in the Philippines has no nationality and that the framers of the Constitution, as will be hereunder explained, did not have in mind the religious corporation sole which they provided that 60 per centum of the capital thereof be owned by Filipino citizens."<sup>17</sup>

#### D. Scope of the Constitutional Prohibition

While Section 5, Article XIII of the 1935 Constitution used the phrase "private agricultural land" in referring to the private land which aliens cannot acquire, the Supreme Court interpreted this phrase to include residential land on the theory that it refers to any land which is not mineral land or timber land.<sup>18</sup>

So inexorable is the prohibition against the acquisition of land by aliens that the fact that a foreign corporation is not organized for profit does not qualify it to own land.<sup>19</sup> Thus, even if the Constitution guarantees religious freedom, a foreign religious organization cannot acquire land. Ownership of land is not necessary for the exercise of freedom of religion.<sup>20</sup>

Although Section 25 of the General Banking Act authorizes banks to own real estate which is necessary for its immediate accommodation in the transaction of business, foreign banks cannot own land. Section 25 of the General Banking Act presupposes the bank is qualified to own land. It was not intended to create an exception to the constitutional prohibition.<sup>21</sup> Thus, a foreign bank cannot acquire a piece of land if it is lending to it to pay for his civil liability, even if the acquisition by the bank is only temporary because it will have to dispose of it within 5 years, as required by Section 25 of the General Banking Act. The prohibition in the Constitution is absolute.<sup>22</sup>

In the same vein, although Section 200 of the Insurance Code authorizes insurance companies to acquire real property which was mortgaged to it or in which it conducts and carries on its businesses, a foreign insurance company cannot own land.<sup>23</sup>

The constitutional prohibition against alien ownership of real property refers to land only. Aliens may acquire improvements standing on a parcel of land, such as buildings, apartments and residential houses.<sup>24</sup>

An alien cannot be a co-owner of a parcel of land.<sup>25</sup> Where the court declared the transaction between a Filipino landowner and a foreigner entered into before the effectivity of the new Civil Code a sale with

right of redemption the Filipino landowner may redeem the land pursuant to Article 1606 of the Civil Code, although this is a new right and Article 2253 of the Civil Code provides that new rights cannot prejudice vested rights. Since the foreigner is disqualified to own land, he has no vested right.<sup>26</sup>

Aliens may be granted usufruct over a parcel of land. Usufruct does not vest title over the land upon the alien.<sup>26</sup>

Aliens may lease land.<sup>28</sup> However, the lease must be for a reasonable period. Otherwise, the constitutional prohibition against acquisition of lands by aliens may be circumvented by accomplishing indirectly what it prohibits directly. A lease for eighty (80) years has been considered unreasonable.<sup>29</sup> The same is true of a lease for fifty (50) years.<sup>30</sup>

However, the Supreme Court has stated that a lease for twenty-five (25) years renewable for another twenty-five (25) years is valid. The Supreme Court explained:

*"El extranjero que compra in terreno se hace dueño, ejerce dominio sobre el mismo; pero el que obtiene arrendamiento no consigne mas que la posesion o uso del terreno; no existe el peligro de que un arrendatario converta en dueño el terreno; el domino lo conserva el arrendador."*<sup>31</sup>

This is the same guideline adopted by Section 1 of Presidential Decree No. 471, which provides:

"The maximum period allowable for the duration of leases of private lands to aliens or alien-owned corporations, associations, or entities not qualified to acquire private lands in the Philippines shall be twenty-five years, renewable for another twenty-five years upon mutual agreement of both lessor and lessee."

Republic Act No. 133, as amended, expressly recognizes that land may be mortgaged to alien. However, in case of foreclosure, the foreign creditor is disqualified to bid for the land mortgaged. Section 1 of Republic Act No. 133, as amended reads:

"Any provision of law to the contrary notwithstanding, private real property may be mortgaged in favor of any individual, corporation, or association, but the mortgagee or his successor in interest, if disqualified to acquire or hold lands of the public domain in the Philippines, shall not take possession of the mortgaged property during the existence of the mortgage and shall not take possession of the mortgaged property except after default and for the sole purpose of foreclosure, receivership, enforcement or other proceedings and in no case for a period of more than five years from actual possession and shall not bid or take part in any sale of such real property in case of foreclosure; Provided, That said mortgagee or successor in interest may take possession of said property after default in accordance with the prescribed judicial procedures for foreclosure and receivership and in no case exceeding five years from actual possession."

#### E. Effect of Violation of the Constitution

The sale of a parcel of land to an alien is void.<sup>32</sup> The alien cannot register the land in his name.<sup>33</sup> However, if the alien succeeded in having the land registered in his name and his title was lost, he can have the title reconstituted. The question of the validity of his title cannot be litigated in the reconstitution

proceeding. His title cannot be attacked collaterally.<sup>34</sup>

The Supreme Court has applied the constitutional prohibition against acquisition of lands by aliens not only to outright sales. It has ruled that a lease for fifty (50) years, coupled with the option to buy, on condition that the foreign lessee would become a Filipino citizen, is within the spirit of the constitutional prohibition. The Supreme Court explained.

"But if an alien is given not only a lease of, but also an option to buy, a piece of land, by virtue of which the Filipino owner cannot sell or otherwise dispose of his property, this to last for 50 years, then it becomes clear that the arrangement is a virtual transfer of ownership whereby the owner divests himself in stages not only of the right to enjoy the land (*ius possidendi, ius utendi, ius fruendi and ius abutendi*) but also of the right to dispose of it (*ius disponendi*) — rights the sum total of which make up ownership. It is just as if today the possession is transferred, tomorrow, the use, the next day, the disposition, and so on, until ultimately all the rights of which ownership is made up are consolidated in an alien."<sup>35</sup>

Initially, in a long line of decisions the Supreme Court and the Court of Appeals held that a Filipino owner who sells his land to a foreign buyer cannot get back the land, because they are in *pari delicto*.<sup>36</sup> The Supreme Court elaborated on its reasoning as follows:

"We can, therefore, say that even if the plaintiffs can still invoke the Constitution, or the doctrine in the *Krivenko* case, to set aside the sale in question, they are now prevented from doing so if their purpose is to recover the lands that they have voluntarily parted with, because of their guilty knowledge that what they were doing was in violation of the Constitution. They can not escape this conclusion because they are presumed to know the law. As the Court well said: 'A party to an illegal contract cannot come into a court of law and ask to have his illegal objects carried out. The law will not aid either party to an illegal agreement, it leaves the parties where it finds them.' The rule is expressed in the maxims: '*Ex dolo malo non oritur actio*' and '*In pari delicto potior est conditio defendentes*.'"<sup>37</sup>

Later the Supreme Court reversed this ruling, saying:

"For another thing, and is not only cogent but also important, article 1416 of the Civil Code provides, as an exception to the rule in *pari delicto*, that 'When the agreement is not illegal per se but is merely prohibited by law and the prohibition by law is designed for the protection of the plaintiff he may, if public policy is thereby enhanced, recover what he has paid or delivered.' The Constitutional provision that 'Save in cases of hereditary succession, no private agricultural land shall be transferred or assigned except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain in the Philippines' is an expression of public policy to conserve lands for the Filipinos."<sup>38</sup>

The Supreme Court concluded:

"This policy would be defeated and its continued violation sanctioned if instead of setting the contracts aside and ordering the restoration of the land

to the estate of the deceased Justina Santos, this Court should apply the general rule of *pari delicto*."<sup>39</sup>

The reversal of the *pari delicto* doctrine represents the correct rule. However it cannot be applied retroactively to cases decided with finality on the basis of the *pari delicto* doctrine because of the principle of *res judicata*.<sup>40</sup>

While the sale of land to an alien can be assailed, the attack must be done by the proper party at the proper proceeding. Thus, a tenant whom a foreign landlord is ejecting cannot raise the defense that the title of his foreign landlord is void. The only issue in an ejectment case is physical possession, and this can be resolved without inquiring into the validity of the title of the foreign landlord.<sup>41</sup>

Where the proposed sale of a parcel of land to a Filipino did not materialize and the owner sold the land to a foreigner, the prospective buyer cannot question the sale, because he has no right to the land.<sup>42</sup> Likewise, where the contract to sell a piece of land to a Filipino was cancelled and the land was sold to another Filipino who resold it to a foreigner, the first buyer cannot assail the resale to foreigner, as he has no right to the property.<sup>43</sup>

Although the sale of a parcel of land to an alien is void, once the land has passed into the hands of a Filipino owner, the sale to the alien can no longer be nullified. This situation may be brought about in two instances. First, the land has been transferred from the foreign buyer to a new owner who is a Filipino.<sup>44</sup> Secondly, the foreign owner may have become a Filipino citizen.<sup>45</sup>

This doctrine was first enunciated in the case of *Vasquez vs. Li Sieng Giap*, (96 Phil. 447, 453), in which the Supreme Court held:

"However, if the ban on aliens from acquiring not only agricultural but also urban lands as construed by this Court in the *Krivenko* case, is to preserve the nation's lands for future generations of Filipinos that, aim or purpose would not be thwarted but achieved by making lawful the acquisition of real estate by alien who became Filipino citizens by naturalization."

If a foreigner became a Filipino citizen by naturalization, it is difficult to see how his acquisition of land in violation of the Constitution can be validated. Under Section 2 of the Revised Naturalization Law, one of the prescribed qualifications for naturalization is that the alien must have conducted himself in a proper and irreproachable manner during his entire stay in the Philippines. His acquisition of land in violation of the Constitution renders him disqualified to be naturalized and should therefore serve as basis for his denaturalization. To allow him to retain the land would be to reward him for grossly violating the Constitution and for illegally securing his naturalization. In fact, the Supreme Court has ruled that an alien whose petition for naturalization has been granted and who entered into a mere contract to sell involving a parcel of land during the two-year probation period should not be allowed to take his oath of allegiance. He has violated a government-announced policy, because he has no right to assume that he would be naturalized.<sup>46</sup>

Besides, Section 2 of the Revised Naturalization Act requires that an alien applying for naturalization must believe in the principles underlying the Philippine Constitution. His acquisition of land in violation of the Constitution is inconsistent with the required belief in the principles underlying the Constitution.<sup>47</sup>



## F. Putting Teeth into the Law

To put teeth into the nationalization of land by the Constitution, the National Assembly of the Commonwealth of the Philippine passed two laws, viz., Commonwealth Act No. 108 and Commonwealth Act No. 310.

Commonwealth Act No. 108, the Anti-Dummy Law, has undergone several amendments since its approval on October 30, 1936. It punishes the following:

1. Any Filipino citizen who allows his name or citizenship to be used for the purpose of evading any nationalization measure and any alien who profits from it.<sup>48</sup>

2. Anyone who simulates the existence of the required percentage by Filipino citizens of the capital stock of any corporation or association to enable it to enjoy a right reserved to corporations or associations with a certain percentage of Filipino ownership of its capital.<sup>49</sup> and

3. Any person, corporation or association which, having a right the enjoyment of which is reserved to Filipino citizens or corporations or associations at least sixty per cent (60%) of the capital of which is owned by Filipino citizens, allows the enjoyment of such right by a person, corporation or association not possessing the required qualification.<sup>50</sup>

To facilitate prosecution, Commonwealth Act No. 108, as amended, creates the following presumptions:

1. The fact that a Filipino citizen at the time he acquired his holdings in the corporation or association sixty per cent (60%) of the capital of which is required to be owned by Filipino citizen had no assets or credit at least equivalent to his holdings is evidence of a violation of the law,<sup>51</sup> and

2. The exercise by a Filipino citizen having a common-law relationship with an alien of a right reserved to Filipino citizens is prima facie evidence of violation of Section 2-A of Commonwealth Act No. 108, as amended.<sup>52</sup>

On the other hand, Section 1 of Commonwealth Act No. 310 provides:

"Any person who, in his own behalf, or in behalf and representation of a corporation or association, transfers or assigns, or causes to be transferred or assigned, or cooperates in the transfer or assignment, of private agricultural land to any person, corporation, or association not qualified to acquire or hold land of the public domain in the Philippines, shall be punished by a fine of not less than five hundred nor more than one thousand pesos, or by imprisonment of from six months to one year, or both in the discretion of the court."

It should be noted that Commonwealth Act No. 310 punishes only the Filipino transferor and not the alien transferee.<sup>53</sup>

## II. The Public Land Act

### A. Judicial Confirmation

Section 48 of the Public Land Act, as amended, reads as follows:

The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose

titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under the Land Registration Act, to wit:

"(a) Those who prior to the transfer of sovereignty from Spain to the United States have applied for the purchase, composition or other form of grant of lands of the public domain under the laws and royal decrees then in force and have instituted and prosecuted the proceedings in connection therewith, but have with or without default upon their part or for any other cause, not received title therefore, if such applicants or grantees and their heirs have occupied and cultivated said lands continuously since the filing of their applications.

"(b) Those who by themselves or through their predecessors in interest have been in open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a *bona fide* claim of acquisition or ownership, for at least thirty years immediately preceding the filing of the application for confirmation of title except when prevented by war or force majeure. They shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.

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

In a split decision, the Supreme Court ruled that private corporations cannot apply to register land under Subsection (b), Section 48 of the Public Land Act, as amended, as it refers only to private individuals. The majority reasoned out:

"Applicant-private respondent Quezon City Development Financing Corporation, being a juridical person, is disqualified to apply subject property for registration under Section 48(b)."<sup>54</sup>

Vigorously dissenting, Mr. Justice Felix Makasiar argued:

"It is therefore patent that the provision of Section 48(b) of C.A. 141, as amended, limiting the acquisition of public agricultural lands only to Filipino citizens was unconstitutional before the effectivity of the 1973 Constitution, because as aforesaid the 1935 Constitution does not prohibit qualified corporations or associations from acquiring agricultural lands of the public domain as long as the area does not exceed 1,024 hectares. The area involved in the instant case is only 8,840 sq. m. — less than a hectare. The 1935 Constitution did not authorize Congress to totally and completely disqualify private corporations to acquire public lands.

"The right to apply for a judicial confirmation of an incomplete or imperfect title was already vested prior to the 1973 Constitution as the applicant acquired the same on December 20, 1969."<sup>55</sup>

In any event, if the individual applying for judicial confirmation was an alien when he succeeded to the possession of his predecessor-in-interest, the land may be registered in his name if he was already a Filipino citizen when he filed his application. The law only requires that he be a Filipino citizen at the time of the filing of his application.<sup>56</sup>

### B. Lease of Public Land to Alien Corporation

Section 60 of the Public Land Act, as amended, provides that any person, corporation, association or partnership disqualified from purchasing public land for agricultural purposes under the Public Land Act may lease land suitable for industrial or residential purposes.

The Secretary of Justice has opined that foreign corporations cannot lease public agricultural land for commercial or industrial purposes on the strength of this provision. When the law gives such benefit to those disqualified from purchasing public agricultural land, it does not refer to aliens to those disqualified under the Public Land Act.<sup>5,7</sup>

However, the Supreme Court has interpreted Section 60 of the Public Land Act, as amended, as authorizing foreign corporations to lease public agricultural land for industrial or residential purposes.<sup>5,8</sup>

### III. Important Changes Under the Constitution Presently in Force

The discussion in this article will focus on two significant changes in the Constitution which is presently in force, viz., the prohibition against the acquisition of public land by private corporations and the reclassification of land.

#### A. Prohibition against Acquisition of Public Land by Private Corporations

Section 11, Article XIV of the Constitution which is presently in force reads in part:

"No private corporation or association may hold alienable lands of the public domain, except by lease not to exceed one thousand hectares in area; nor may any citizen hold such lands by lease in excess of five hundred hectares or acquire by purchase or homestead in excess of twenty-four hectares."

Under this provision, private corporations can no longer acquire public land. This provision has opened the floodgates to numerous controversies:

The Supreme Court interpreted this provision to mean that a private corporation cannot apply for the registration under the Torrens system of land it acquired from a Filipino individual if that individual was in possession of the land for at least thirty (30) years in accordance with Subsection (b), Section 48 of the Public Land Act, as amended.

The majority opinion in *Mamala Electric Co. vs. Barolome* thus ruled:

"We hold that, as between the State and Meralco, the said land is still public land. It would cease to be public land only upon the issuance of the certificate of title to any Filipino citizen claiming it under section 48 (b)."<sup>5,9</sup>

In an exhaustive dissenting opinion, Mr. Justice Claudio Teehankee assailed the ruling of the majority. His reasoning is best summated by the following quotation:

"3. In fine, since under the Court's settled doctrine, the *acquisitive prescription* of alienable or disposable public lands provided for now in section 48, par. (b) of the Public Land Act takes place *by operation of law* and the public land is converted to and becomes *private property* upon a showing of open and unchallenged possession under *bona fide* claim of ownership by the applicants' predecessors-in-interest of the *statutory period of thirty years* immediately preceding the filing of the application and 'it is not necessary that a certificate of title should be issued in order that said grant may be sanctioned by the court' which right is expressly backed up by the *conclusive* presumption or presumption *juris et de jure* of the statute that the possessor has 'performed all the conditions essential to a Government grant,' the applicant Meralco cannot be said to be barred as a corporation from filing the application for registration of the *private property* duly acquired by it."<sup>6,0</sup>

The view advanced in the dissenting opinion represents the better rule. The moment a person complies with all the requirements for the acquisition of title to public agricultural land, his right to the land becomes vested by operation of law without the need for the issuance of the title. The land ceases to be public land and becomes private land.<sup>6,1</sup>

Thus, in *Herico vs. Dar*, the Supreme Court held:

"As interpreted in several cases, when the conditions as specified in the foregoing provision are complied with, the possessor is deemed to have acquired *by operation of law*, a right to a grant, a government grant, without the necessity of a certificate of title being issued. The land, therefore, ceases to be of the public domain, and beyond the authority of the Director of Lands to dispose of. The application for confirmation is a mere formality, the lack of which does not affect the legal sufficiency of the title as would be evidenced by the patent and the Torrens title to be issued upon the strength of said patent."<sup>6,2</sup>

Besides, registration of a parcel of land under the Torrens system is not a mode of acquiring title. Registration does not vest title to the land. It merely establishes and confirms the title as already vested.<sup>6,3</sup>

On this particular point, the Supreme Court stressed:

"This is based on the premise that our Torrens system of land registration is a system for the registration of title to land only. It was not established as a means for the acquisition of title to private land, much less title to lands of the public domain. It is intended merely to confirm and register the title which one may already have over the land. Where the applicant possesses no title or ownership over the parcel of land, he cannot acquire one under the Torrens System of registration."<sup>6,4</sup>

Moreover, in all the cases which involved the *Iglesia ni Cristo* as corporation sole, the Supreme Court did not apply its pronouncement in the earlier case of *Ramon Catholic Apostolic Administrator of Davao, Inc. vs. Land Registration Commission*, (102 Phil. 596): that title to the land devolves upon the individuals composing the congregation. In *Republic vs. Iglesia Ni Cristo*, (127 SCRA 687, 690), it brushed aside the argument of the *Iglesia ni Cristo* that it is a trustee, because it is a corporation sole. The court reasoned out that from the fact that the *Iglesia ni Cristo* is a corporation sole, it does not follow that it was holding the land it wanted to register as a trustee, since it did not apply for registration as a trustee.

Thus, it seems that the Iglesia ni Cristo is not precluded from applying for the registration of land in its name as a trustee if at least sixty per cent (60%) of its followers for whom it is holding the land in trust are Filipinos. In fact, Section 14 of the Property Registration Decree provides:

"A trustee on behalf of his principal may apply for original registration of any land held in trust by him, unless prohibited by the instrument creating the trust."

Be that as it may, if a corporation has complied with all the requirements for the issuance of a sales patent before the effectivity of the present Constitution on January 17, 1973, the sales patent may be validly issued after that date. The right of the corporation to the land is vested.<sup>65</sup>

Thus, the Supreme Court said of Section 11, Article XIV of the Constitution which is presently in force:

"We hold that the said constitutional prohibition has no retroactive application to the sales application of Bifan Development Co., Inc. because it had already acquired a vested right to the land applied for at the time the 1973 Constitution took effect."<sup>66</sup>

This holds true even if the cultivation requirements were complied with before the full payment of the price was made after the effectivity of the present Constitution.<sup>67</sup>

#### B. Reclassification of Land

Section 14, Article XIV of the Constitution which is presently in force reads as follows:

"Save in cases of hereditary succession, no private land shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain."

While this provision is essentially the same as Section 5, Article XIII of the 1935 Constitution, the word "agricultural" has been omitted. This is due to the repudiation of the classification of lands into agricultural, mineral and timber made in *Krivenko vs. Register of Deeds of Manila*, (79 Phil: 461). Section 10, Article XIV of the Constitution which is presently in force states:

"Lands of the public domain are classified into agricultural, industrial or commercial, residential, resettlement, mineral, timber or forest, and grazing lands; and such other classes as may be provided by law."

The Supreme Court earlier held that sale of private agricultural land to a foreigner was void, because the 1935 Constitution makes no distinction between private individuals and the government.<sup>68</sup>

Although a corporation sixty per cent (60%) of the capital of which is owned by Filipinos cannot acquire public land, it can acquire private land. Under Section 14, Article XIV of the Constitution which is presently in force, to qualify to acquire private land, a corporation must be qualified to acquire or hold lands of

the public domain. Since the provision uses the word "or" between the words "acquire" and "hold" the right to acquire and the right to hold are alternative qualifying attributes; and acquisition is different from holding. To hold public land one need not be the owner. To hold means to be the grantee or tenant of another.<sup>69</sup>

Since a corporation sixty per cent (60%) of the capital stock of which is owned by Filipino citizen can lease public land, it can hold public land and is therefore qualified to acquire private land.

In fact, the Secretary of Justice has opined that if a contrary rule were to be adopted, the provision allowing qualified corporations to own private land will become inoperative.<sup>70</sup>

### IV. Allowable Acquisition of Land by Aliens

#### A. Hereditary Succession

Aliens can inherit land.<sup>71</sup> Section 14, Article XIV of the Constitution which is presently in force allows aliens to acquire land by hereditary succession.

Hereditary succession means inheritance by law.<sup>72</sup> It means the passing of title under the law of descent.<sup>73</sup> Thus, a foreigner cannot acquire land by way of testamentary devise. In an *obiter dictum*, the Supreme Court stated:

"We are of the opinion that the Constitutional provision which enables aliens to acquire private lands does not extend to testamentary succession for otherwise the provision will be for naught and meaningless. Any alien would be able to circumvent the prohibition by paying money to a Philippine landowner in exchange for a devise of a piece of land."<sup>74</sup>

However, if the will bequeaths to a foreigner what he would otherwise have inherited by intestate succession, the devise should be valid. The will is not giving him anything more than what he would have obtained by intestate succession.

Since an alien can acquire land by hereditary succession, a partition of the estate of a deceased person in which one of the heirs is an alien can be registered.<sup>75</sup>

#### B. The Parity Amendment

The Parity Amendment appended to the 1935 Constitution opened the disposition, exploitation, development and utilization of all agricultural, timber and mineral lands of the public domain to citizens of the United States and all forms of business enterprises sixty per cent (60%) of the capital of which was owned by citizens of the United States up to July 3, 1974.

The landmark decision of *Republic vs. Quasha*, (46 SCRA 160) handed down two (2) important pronouncements. First, the Parity Amendment allowed citizens of the United States and business enterprises owned by them to acquire public land only and not private land. The decision pointed out:

"Examination of the 'Parity Amendment', as ratified, reveals that it only establishes an express exception to two (2) provisions of our Constitution, to wit: (a) Section 1, Article XIII re: disposition, exploitation, development and utilization of agricultural, timber, and mineral lands of the public domain and other natural resources of the Philippines; and (b) Section 8, Article XIV, regarding operation of public utilities."<sup>76</sup>

Secondly, the decision emphasized that rights acquired by citizens of the United States and business enterprises owned by them would expire on July 3, 1974. The decision stressed:

"It is easy to see that all exceptional rights conferred upon United States citizens and business entities owned or controlled by them, under the Amendment, are subject to one and the same resolatory term or period: they are to last 'during the effectivity of the Executive Agreement entered into on July 4, 1946,' but in no case to extend beyond the third of July, 1974.' None of the privileges conferred by the 'Parity Amendment' are excepted from this resolatory period."<sup>77</sup>

The logical conclusion of the ruling in the case of *Republic vs. Quasha*, (46 SCRA 160) is that a Filipino who sold private land to a citizen of the United States should be allowed to recover the land in accordance with the ruling in *Philippine Banking Corporation vs. Lui She*, (65 O. G. 2101). However, the framers of the present Constitution watered this down. Section 11, Article XVII of the Constitution which is presently in force provides:

"The rights and privileges granted to citizens of the United States or to corporations or associations owned or controlled by such citizens under the Ordinance appended to the nineteen hundred and thirty-five Constitution shall automatically terminate on the third of July, nineteen hundred and seventy-four. Titles to private lands acquired by such persons before such date shall be valid as against other private persons only."

This provision barred the Filipino seller from recovering the private land he sold to the citizen of the United States. Thus only the government can assail the title of the citizen of the United States. Should the government decide to do so, it would have to file an escheat or reversion proceeding in accordance with Section 5, Rule 91 of the Rules of Court.<sup>78</sup> Expropriation is not the proper remedy to divest the citizen of the United States of the land, because expropriation presupposes the defendant owns the property to be expropriated.<sup>79</sup>

The Secretary of Justice opined that a Filipino who devoted a piece of land to an American religious corporation could not revoke the donation upon the expiration of the Parity Amendment, because this is not one of the grounds for revoking a donation under Articles 760, 764 and 765 of the Civil Code.<sup>80</sup>

While the conclusion of the Secretary of Justice is correct, the reasoning used in arriving at the conclusion is faulty. The opinion could have traversed through a surer route if it had relied on Section 11, Article XVII of the Constitution which is presently in force.

In any event, Presidential Decree No. 697 allowed citizens of the United States and business enterprises owned by them to donate the private lands they acquired under the Parity Agreement. Presidential Decree No. 697 gave them up to May 26, 1975 to submit formal donation proposals.

Presidential Decree No. 713 adopted the policy of respecting the title of citizens of the United States who acquired private land during the effectivity of the Parity Amendment. Section 1 of Presidential Decree provides:

"Citizens of the United States of America who were formerly citizens of the Philippines or who, on the date hereof, have resided in the Philippines continuously for at least twenty (20) years, and who in good faith had acquired private residen-

tial lands in the Philippines not exceeding five thousand (5,000) square meters for a family dwelling before the expiration of the Philippine-United States Trade Agreement on midnight July 3, 1974 may continue to hold such lands and to transfer ownership over such lands to qualified persons or entities.

"The same rights is hereby granted to those citizens of the United States who become permanent residents of the Philippine and who acquired private residential lands in the Philippines of not more than five thousand (5,000) square meters for a family dwelling."

This applies to individuals only. It does not apply to corporations, because it refers to citizens of the United States who were formerly Filipino citizens or who become permanent residents of the Philippines.<sup>81</sup>

### C. Condominium Units

Under the Condominium Act, two arrangements may be set up to provide for the ownership of the common areas. The common areas, which include the land on which the condominium project stands, may be owned in common by the owners of the separate condominium units. Another way is to organize a condominium corporation, which will own the common areas, including the land. The owners of the separate condominium units will then be stockholders of the condominium corporation. Section 5 of the Condominium Act provides:

"Any transfer or conveyance of a unit or an apartment, office or store or other space therein, shall include the transfer or conveyance of the undivided interests in the common areas or, in a proper case, the membership or shareholdings in the condominium corporation. Provided, however, That where the common areas in the condominium project are owned by the owners of separate units as co-owners thereof, no condominium unit therein shall be conveyed or transferred to persons other than Filipino citizens, or corporations at least sixty per cent of the capital stock of which belong to Filipino citizens, except in cases of hereditary succession. Where the common areas in a condominium project are held by a corporation, no transfer or conveyance of a unit shall be valid if the concomitant transfer of the appurtenant membership or stockholdings in the corporation will cause the alien interest in such corporation to exceed the limits imposed by existing laws."

Thus, if the common areas in a condominium project are owned in common, aliens cannot own any unit in the condominium project. Otherwise, they will be co-owners of the land on which the condominium project stands. On the other hand, if the common areas are owned by a condominium corporation, alien can own up to forty per cent (40%) of the units. Sixty per cent (60%) of the membership of the capital stock of the condominium corporation will then be in the hands of Filipino citizens. The condominium corporation will therefore be qualified to own private land.

### D. Embassies

Foreign governments are allowed to purchase lands for diplomatic and consular purposes. Article 21 of the Vienna Convention on Diplomatic Relations, to which the Philippines is a signatory, provides:

"1. The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws, by the Sending State of the premises necessary for its mission or assist the latter in obtaining accommodation in some other way.



"2. It shall also, where necessary, assist missions in obtaining suitable accommodation for their members."

Section 3. Article II of the Constitution which is presently in force declares:

"The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land, and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations."

Since the Vienna Convention on Diplomatic Relations imposes upon the receiving state the duty to help the sending state acquire premises necessary for its mission and since the generally accepted principles of international law are part of the law of the land, the Philippines should allow foreign governments to acquire land for diplomatic and consular purpose. However, the area should be limited to what is necessary to insure the efficient performance of the diplomatic and consular missions of the sending state. Hence, the government should limit the area to what is absolutely necessary to house office and the residence of the diplomatic and consular representatives. The area should be determined on a case-to-case basis in consultation with the Ministry of Foreign Affairs.<sup>82</sup>

The national government cannot lease any public land to a foreign government to be used as a school for the citizens of the foreign government. Under Section 9, Article XIV of the Constitution which is presently in force, the use of the natural resources of the Philippines is limited to Filipino citizens and corporations or associations at least sixty per cent (60%) of the capital of which is owned by Filipino citizens. Besides, under Section 1 of Act No. 3038, the land of the private domain of the national government may be leased only to those qualified to purchase or lease public land. However, a local government may lease its patrimonial property to a foreign government for the operation of a school. Under Article 424 of the Civil Code, the patrimonial property of local governments are treated just like the property of private individuals.<sup>83</sup>

On the other hand, the Asian Development Bank is not entitled to own land for its office. Section 10 of the Headquarters Agreement between the Asian Development Bank and the Philippines merely obliged the Philippines to grant the Asian Development Bank permanent use and sole occupancy of its headquarters, but the Philippines retained ownership of the headquarters.<sup>84</sup>

However, the Headquarters Agreement can be amended so as to allow the Asian Development Bank to own land. Section 16, Article XIV of the Constitution which is presently in force authorizes international agreements despite the nationalization of land in Section 14, Article XIV. Section 16, Article XIV of the Constitution which is presently in force provides:

"Any provision of paragraph one, Section fourteen, Article Eight and of this Article notwithstanding, the President may enter into international treaties or agreements as the national welfare and interest may require."

### E. The 1981 Amendment

On April 7, 1981, Section 15, Article XIV of the Constitution which is presently in force was added. This provision reads:

"Notwithstanding the provisions of Section 14 of this Article, a natural born citizen of the Philippines who has lost his citizenship may be a transferee of private land, for use by him as his residence, as the Batasang Pambansa may provide."

The introductory clause of BP-CA Resolution No. 28 set forth the justification for this amendment as follows:

"WHEREAS, during the last visit of His Excellency, the President, to Hawaii, thousands of these former Filipino natural-born citizens expressed a desire to return to the Philippines and reside here permanently so as to be able to spend the remaining years of their lives in the land of their birth and contribute in whatever way they can towards the development of our country and the well-being of our people."

Only natural-born Filipino citizens may acquire land under Section 15, Article XIV of the Constitution which is presently in force. Thus, naturalized Filipino citizens are excluded.<sup>85</sup> If he lost his Filipino citizenship because he elected foreign citizenship, he may avail of the privilege granted by Section 15, Article XIV of the Constitution which is presently in force.<sup>86</sup> The same is true of a Filipino woman who married a foreign husband and became a foreign citizen.<sup>87</sup> The former natural-born Filipino citizen is not required to reacquire Filipino citizenship before he can acquire land.<sup>88</sup>

Since the provision uses the word "transferee", the former natural-born Filipino citizen can acquire land only through a derivative mode. He cannot acquire land through an original title like prescription or occupation.<sup>89</sup>

The provision allows the former natural-born Filipino citizen to acquire private land only. Thus, he cannot acquire lands of the public domain.<sup>90</sup>

The former natural-born Filipino citizen must use the private land he acquired for residential purposes only.<sup>91</sup> Of course, he may devote a portion of the land to backyard farming, gardening, poultry raising or piggery; but the primary use must be residential.<sup>92</sup> The former natural-born Filipino citizen must physically reside at the land he acquired.<sup>93</sup> However, he may return for a visit from time to time to the foreign country of which he is a citizen.<sup>94</sup>

The former natural-born Filipino citizen can mortgage the land he acquired.<sup>95</sup> If he dies, his heirs can inherit the land.<sup>96</sup>

Section 15, Article XIV of the Constitution which is presently in force does not affect the right of the former natural-born Filipino citizen to acquire land by hereditary succession under Section 14, Article XIV. Thus, his acquisition of land under the former does not preclude him from acquiring land under the latter.<sup>97</sup>

To implement Section 15, Article XIV of the Constitution which is presently in force, the Interim Batasang Pambansa enacted Batas Pambansa Blg. 185. The heart of the law is found in Section 2, which provides:

"Any natural-born citizen of the Philippines who has lost his Philippine citizenship and who has the legal capacity to enter into a contract under Philippine laws may be a transferee of a private land up to a maximum area of one thousand square meters, in the case of urban land, or one hectare in the case of rural land, to be used by him as his residence. In the case of married couples, one of them may avail of the privilege herein granted: Provided, that, if both shall avail of the same, the total area acquired shall not exceed the maximum herein fixed."

"In case the transferee already owns urban or rural lands for residential purposes, he shall still be entitled to be a transferee of additional urban or rural lands for residential purposes which, when added to those already owned by him, shall not exceed the maximum areas herein authorized."

In its application, the law does not distinguish as to how the former natural-born Filipino citizens lost his Filipino citizenship. Thus, if he lost it for having been declared a deserter of the armed forces in time of war, he can still avail of the privilege granted by the law.<sup>98</sup>

The law applies to private land only. Private land is land owned by a private person or corporation and is no longer part of the public domain.<sup>99</sup>

The law is not intended to govern lands acquired by hereditary succession under Section 14, Article XIV of the Constitution which is presently in force. Thus, an alien may acquire by hereditary succession a parcel of land whose area exceeds the maximum area allowed by Batas Pambansa Blg. 185. He need not use it for his residence and may devote it to any lawful purpose.<sup>100</sup> However, the land he acquired by hereditary succession will be considered in computing the total area of his landholdings to determine if he can still acquire private land.<sup>101</sup>

If a married couple were previously divorced abroad, they can separately acquire the maximum land area allowed by the law. They can retain their landholdings, even if they subsequently get married again to each other. Their rights became vested before they remarried. However, if the divorce was obtained pursuant to a scheme to circumvent the law, the parcels of land can be escheated under Section 7 of Batas Pambansa Blg. 185.<sup>102</sup>

Section 3 of Batas Pambansa Blg. 185 allows a former natural-born Filipino citizen to acquire not more than two lots which should be situated in different municipalities and cities and which should not have a total area in excess of the maximum allowed in Section 2. However, the law requires him to use the lots for residential purposes. Conceivably, he can maintain a house in the province and another one in the city where his children can live with him while studying in the city.<sup>103</sup>

The consequences of the violation by the former natural-born Filipino citizen of the conditions imposed by Batas Pambansa Blg. 185 are set forth in Section 7, which provides:

"The transferee shall not use the lands acquired under this Act for any purpose other than for his residence. Violations of this section, any misrepresentation in the sworn statement required under Section 6 hereof, any acquisition through fraudulent means or failure to reside permanently in the land acquired within two years from the acquisition thereof, except when such failure is caused by a *force majeure* shall, in addition to any liability under the Revised Penal Code and deportation in appropriate cases, be penalized by forfeiture of such lands and their improvements to the National Government. For this purpose, the Solicitor General or his representative shall institute escheat proceedings.

"Any transferee liable under this section shall moreover be forever barred from further availing of the privilege granted under this Act.

Thus, the former natural-born Filipino citizen must reside permanently in the land he acquired within two years from the date of its acquisition. If he bought the land on installment by virtue of a contract to sell, the two-year period will be reckoned from the date he made the full payment, unless the contract provides otherwise.<sup>104</sup>

If the former natural-born Filipino citizen bought a piece of private land with the intention of residing there permanently but he later on changed his mind and did not reside there, the land will be forfeited.<sup>105</sup> If he leases the land instead, he will forfeit it.<sup>106</sup> If he failed to qualify for permanent residence in the Philippines and was not able to obtain a Philippine visa, he will lose the land.<sup>107</sup>

Being clothed with the attributes of ownership, a former natural-born Filipino citizen can alienate private land he acquired under Batas Pambansa Blg. 185.<sup>108</sup> He can exchange it for another parcel of land.<sup>109</sup> He can resell it and buy another parcel of private land.<sup>110</sup>

Violation of the conditions imposed by Batas Pambansa Blg. 185 will mean forfeiture of the land in favor of the National Government. Thus, the former owner of the land cannot get it back.<sup>111</sup> Before the land is forfeited, the former natural-born Filipino citizen can sell it. If the purchaser is a buyer in good faith and for value, his rights should be respected.<sup>112</sup>

### CONCLUSION

There should be no turning back from the policy of preserving land as the heritage of the Filipinos. Disputes regarding the nationalization of land should be resolved by bearing in mind that it is the paramount intention of the framers of the fundamental law to preserve land as the heritage of the Filipinos. Any exception to this principle must be strictly construed.

## FOOTNOTES

- <sup>1</sup> Aruego, *The Framing of the Philippine Constitution*, Vol. II, p. 604.
- <sup>2</sup> *Nagrampa vs. Director of Lands*, CA-G. R. No. 3488-R, April 20, 1949; *Director of Lands v. Abadies*, CA-G.R. No. 10775-R, August 29, 1957.
- <sup>3</sup> *Falcasantos vs. Haw. Suy Chiong*, 91 Phil. 456, 460; *De Guinoo vs. Court of Appeals*, 97 Phil. 235, 238; *Herrera vs. Luy Kim Guan*, 110 Phil. 1020, 1027; *Macasantos vs. Guinoo*, CA-G. R. No. 5148-R, December 13, 1951.
- <sup>4</sup> *Philippine National Bank vs. Ah Sing*, 69 Phil. 611, 617.
- <sup>5</sup> *Bautista vs. Dy Bun Chin*, (CA) 49 O.G. 179, 183; *Gamit vs. Board of Foreign Mission*, CA-G. R. No. 46657-R, August 25, 1975; *Land Registration Commission Consulta No. 125*, December 5, 1956.
- <sup>6</sup> *Bautista vs. Lam Ping*, 90 Phil. 409, 414; *Almario vs. Corrales*, (CA) 45 O.G. 795, 799.
- <sup>7</sup> *Escoto vs. Arculla*, 89 Phil. 199, 203-204.
- <sup>8</sup> *San Juan vs. Socchi*, 122 Phil. 1167, 1176-1177.
- <sup>9</sup> *Haw Pia vs. Osmeña*, 64 Phil. 469, 473; *Parco vs. Haw Pia*, 68 O.G. 7468, 7480.
- <sup>10</sup> *Moss vs. Director of Lands*, 80 SCRA 269, 271.
- <sup>11</sup> *Opinion of the Secretary of Justice No. 155*, Series of 1948.
- <sup>12</sup> *Opinion of the Secretary of Justice No. 53*, March 22, 1973; *Opinion of the Secretary of Justice No. 100*, August 2, 1973; *Opinion of the Secretary of Justice No. 124*, August 9, 1974; *Opinion of the Secretary of Justice No. 209*, November 25, 1975; *Opinion of the Secretary of Justice No. 209*, October 1, 1976; *Opinion of the Secretary of Justice No. 44*, April 18, 1977; *Opinion of the Secretary of Justice No. 7*, January 10, 1978; *Opinion of the Minister of Justice No. 66*, April 15, 1981.
- <sup>13</sup> *Opinion of the Secretary of Justice No. 225*, December 24, 1975.
- <sup>14</sup> *People vs. Altea*, (CA) 53 O.G. 1464, 1472.
- <sup>15</sup> *Palting vs. San Jose Petroleum, Inc.*, 125 Phil. 5, 19.
- <sup>16</sup> *Romari Catholic Apostolic Administrator of Davao, Inc. vs. Land Registration Commission*, 102 Phil. 596, 606-607.
- <sup>17</sup> *Ibid.* at p. 612.
- <sup>18</sup> *Krivenko vs. Register of Deeds of Manila*, 79 Phil. 461.
- <sup>19</sup> *Opinion of the Secretary of Justice No. 70*, May 19, 1975; *Opinion of the Secretary of Justice No. 212*, November 27, 1975.
- <sup>20</sup> *Register of Deeds of Rizal vs. Ung Sin Li Temple*, 97 Phil. 58, 61.
- <sup>21</sup> *Land Registration Commission Consulta No. 127*, December 7, 1956.
- <sup>22</sup> *Register of Deeds of Manila vs. China Banking Corporation*, 114 Phil. 1085, 1089.
- <sup>23</sup> *Opinion of the Secretary of Justice No. 13*, January 24, 1972.
- <sup>24</sup> *Opinion of the Secretary of Justice No. 180*, December 21, 1973; *Opinion of the Secretary of Justice No. 3*, January 7, 1974; *Land Registration Commission Consulta No. 78*, March 23, 1956.
- <sup>25</sup> *Opinion of the Secretary of Justice No. 180*, December 21, 1983.
- <sup>26</sup> *Nagun vs. Vingo*, CA-G.R. No. 38150-R, December 11, 1973.
- <sup>27</sup> *Ramirez vs. Vda. de Ramirez*, 111 SCRA 704, 712.
- <sup>28</sup> *Krivenko vs. Register of Deeds of Manila*, 79 Phil. 461, 481; *Lim vs. Macalinao*, CA-G.R. No. 11952, October 13, 1956; *Opinion of the Secretary of Justice No. 290*, October 26, 1954.
- <sup>29</sup> *Opinion of the Secretary of Justice No. 58*, August 9, 1949.
- <sup>30</sup> *Opinion of the Secretary of Justice No. 235*, October 28, 1952.
- <sup>31</sup> *Smith, Bell & Co., Ltd. vs. Register of Deeds of Davao*, 96 Phil. 53, 59.
- <sup>32</sup> *Krivenko vs. Register of Deeds*, 79 Phil. 461, 474; *Pindangan Agricultural Co. vs. Schenkel*, 83 Phil. 529, 539-540; *Caoble vs. Yu Chiao Ping*, 93 Phil. 861, 863; *Mercado vs. Go Bio*, 93 Phil. 918, 926; *Soriano vs. Ong Hoo*, 103 Phil. 829, 832; *Atender vs. Polistico*, 8 CAR 647, 656.

- <sup>33</sup> *Oh Cho vs. Director of Lands*, 75 Phil. 890, 892; *Krivenko vs. Register of Deeds of Manila*, 79 Phil. 461, 481; *Reyes vs. Contreras*, CA-G. R. No. 15535-R, December 19, 1956.
- <sup>34</sup> *Director of Lands vs. Gan Tan*, 89 Phil. 184, 187; *Chua Ya Sun vs. De los Santos*, 90 Phil. 402, 403.
- <sup>35</sup> *Philippine Banking Corporation vs. Lui She*, 65 O.G. 2101, 2110-2111.
- <sup>36</sup> *Cortes vs. O Po Pue*, G. R. No. L-2943, October 30, 1953; *Cortes vs. Dee Chian Hong & Sons, Inc.*, G.R. No. L-3107, November 27, 1953; *Alberto vs. Sing*, G. R. No. L-6336, November 27, 1953; *Rellosa vs. Gaw Chee Hun*, 93 Phil. 827, 831; *Bautista vs. Isabelo*, 93 Phil. 843, 847; *Talento vs. Makiki*, 93 Phil. 855, 860; *Caoble vs. Yu Chiao Ping*, 93 Phil. 861, 863; *Mercado vs. Go Bio*, 93 Phil. 918, 926; *Arambulo vs. Cua So*, 95 Phil. 749, 750; *Dinglasan vs. Lee Bun Ting*, 99 Phil. 427, 431; *Soriano vs. Ong Hoo*, 103 Phil. 829, 832; *Brasileno vs. Zapata*, CA-G. R. No. 3333-R, October 24, 1950; *Butte vs. Ong Sui Lin*, (CA) 51 O.G. 5704, 5710.
- <sup>37</sup> *Cabauatan vs. Uy Hoo*, 88 Phil. 103, 106-107.
- <sup>38</sup> *Philippine Banking Corporation vs. Lui She*, 65 O.G. 2101, 2111-2112.
- <sup>39</sup> *Ibid.*, at p. 2112.
- <sup>40</sup> *Lee Bun Ting vs. Aligaen*, 76 SCRA 416, 424.
- <sup>41</sup> *Loc Soo vs. Osorio*, 89 Phil. 135; 137; *Dy Sun vs. Brillantes*, 93 Phil. 175, 180. 0.
- <sup>42</sup> *Tolentino vs. Lim Bun Hioc*, G.R. No. L-6333, May 10, 1955.
- <sup>43</sup> *Tolentino vs. Philippine Land Improvement Co., Inc.*, G.R. No. L-2469, September 30, 1950.
- <sup>44</sup> *Vda. de Barsobia vs. Cuenco*; 113 SCRA 547, 553; *Godinez vs. Pok Luen*, 120 SCRA 223, 230; *De Castro vs. Teng Queen-Tan*, G.R. No. L-31956, April 30, 1984; *Tambunting vs. Philippine Chinese Charitable Association, Inc.*, CA-G.R. No. 45058-R, October 24, 1974; *Bertillo vs. Mora*, CA-G. R. No. 41849, January 16, 1976; *Vda. de Perez vs. Chochuy*, CA-G.R. No. 50588-R, July 6, 1977; *Opinion of the Secretary of Justice dated February 1, 1968*.
- <sup>45</sup> *Yap vs. Grageda*, 121 SCRA 244, 247; *Avendaño vs. Brillon*, (CA) 57 O.G. 3729, 3732; *Opinion of the Secretary of Justice No. 148*, September 18, 1974.
- <sup>46</sup> *Tan Tiam vs. Republic*, 112 Phil. 120, 122.
- <sup>47</sup> *Lim Guan vs. Republic*, 16 SCRA 111, 113.
- <sup>48</sup> *Section 1, Commonwealth Act No. 108*, as amended.
- <sup>49</sup> *Section 2, Commonwealth Act No. 108*, as amended.
- <sup>50</sup> *Section 2-A, Commonwealth Act No. 108*, as amended.
- <sup>51</sup> *Section 1, Commonwealth Act No. 108*, as amended.
- <sup>52</sup> *Section 2-C, Commonwealth Act No. 108*, as amended.
- <sup>53</sup> *Opinion of the Secretary of Justice No. 92*, December 9, 1949.
- <sup>54</sup> *Director of Lands vs. Lood*, 124 SCRA 460, 466-467. See also *Manila Electric Co., vs. Bartolome*, 114 SCRA 799, 806; *Republic vs. Villanueva*, 114 SCRA 875, 881; *Republic vs. Gonong*, 118 SCRA 729, 733; *Republic vs. Court of Appeals*, 119 SCRA 449, 451; *Republic vs. Iglesia ni Cristo*, 127 SCRA 687, 689; *Republic vs. Iglesia ni Cristo*, 128 SCRA 44, 49.
- <sup>55</sup> *Ibid.* at p. 473.
- <sup>56</sup> *Villarica vs. Pagsumbangan*, CA-G.R. No. 12700-R, November 29, 1957; *Maknud vs. Director of Lands*, (CA) 62 O.G. 560, 563.
- <sup>57</sup> *Opinion of the Secretary of Justice No. 137*, September 22, 1972; *Opinion of the Secretary of Justice No. 140*, September 28, 1972.
- <sup>58</sup> *Mauleon vs. Court of Appeals*, 72 O.G. 2416, 2424.
- <sup>59</sup> 114 SCRA 799, 806. See also *Republic vs. Iglesia ni Cristo*, 127 SCRA 687, 689 and *Republic vs. Iglesia ni Cristo*, 128 SCRA 44, 47.
- <sup>60</sup> *Ibid.* at pp. 820-821.
- <sup>61</sup> *Susi vs. Razon*, 48 Phil. 424, 428; *Balboa vs. Farrales*, 51 Phil. 498, 503; *Lacaste vs. Director of Lands*, 63 Phil. 654, 655; *Mesina vs. Vda. de Sonza*, 108 Phil. 251, 253; *Manarpac vs. Cabanatan*, 21 SCRA 743, 748; *Tapayan vs. Olidiana*, (CA) 490 O.G. 2369, 2374; *De Villa vs. Director of Lands*, (CA) 60 O.G. 4266, 4271; *Villagracia vs. Director of Lands*, 2 CAR (2s) 357, 367.