SUPREME COURT CASE DIGEST

CIVIL LAW — CONTRACTS — A CONDITIONAL SALE WHICH STATES THAT THE VENDEE IS TO PAY THE DEBTS OF THE VENDOR, THAT IF THE VENDOR PAYS THE SAID DEBTS THE SALE SHALL BE VOID, BUT THAT IF THE VENDEE PAYS THE SAME THE SALE SHALL BECOME ABSOLUTE AUTOMACALLY, IS NOT AN EQUITABLE MORTGAGE BUT A SALE SUBJECT TO A RESOLUTORY CONDITION — The land in question was registered under the Torrens System in 1918. In 1924, Exequiel Ampil, the registered owner, sold the land to the defendant who took possession of the same and paid the taxes thereon up to 1955. The said sale, however, was not registered, the title remaining in the name of Ampil. Ampil was indebted to several creditors; the debts were guaranteed by the plaintiff. On October 21, 1933,Ampil executed a document entitled "Conditional Sale" in favor of the plaintiff. The sale states: that the vendor sold to the vendee the real properties described therein in consideration of the obligation assumed by the vendee — to pay what the vendor owed to several parties; that if the vendor paid the debts aforesaid, the sale made shall become inoperative and void, but that if the vendee paid the same debts by reason of the vendor's failure to do so, the sale made shall become absolute and irrevocable automatically, without the need of executing any other deed of conveyance. On February 12, 1937, by virtue of the affidavit of consolidation filed by the plaintiff, the title of Ampil was cancelled and a new certificate of title was issued in the name of the plaintiff. The defendant claims that the contract between the plaintiff and Ampil is one of equitable mortgage. *Held,* that the contract is a perfected contract of sale subject to a resolutory condition authorized by Articles 1145, 1113 (2nd par.) and 1114 of the Civil Code. It does not constitute a mere security — which is the manifest purpose of a contract of mortgage — but instead it makes a conditional transfer of ownership which becomes automatically absolute and final upon the performance of the condition — the payment by the vendee of what the vendor owed several parties. This had been done by the vendee. RODRIGUEZ *v.* FRANCISCO, G.R. No. L-12039, June 30, 1961.

CIVIL LAW—OBLIGATIONS AND CONTRACTS—A STIPULATION REQUIRING THE RECIPIENT OF A SCHOLARSHIP GRANT TO WAIVE HIS RIGHT TO TRANSFER TO ANOTHER SCHOOL, BEFORE RECEIVING THE AWARD, UNLESS HE REFUNDS THE EQUIVALENCE OF HIS SCHOLARSHIP CASH IS NULL AND VOID. — Emeterio Cui enrolled in the College of Law of the Arellano University for the schoolyear 1948-49. Cui finished his law studies up to and including the first semester of the fourth year. Cui left the defendant school

and enrolled for the last semester of his fourth year in the Abad Santos University. During all the time he was studying law in the Arellano University, Cui was awarded scholarship grants, so that his tuition fees were returned to him after semesters, when the scholarship grants were awarded to him. To secure permission to take the bar examinations, he needed the transcripts of his records in the defendant Arellano University. The defendant University refused to issue the plaintiff the needed transcript until after he had paid back the fees refunded to him by the University. The plaintiff paid the fees under protest. He is now seeking to recover the sum of money paid by him. It appears, however, that before the defendant awarded to the plaintiff the scholarship grants, he (Cui) was made to sign a waiver of his right to transfer to another school, unless he refunds to the defendant the equivalence of his scholarship cash. It is admitted that on August 16, 1949, the Director of Private Schools issued Memorandum No. 38 to the effect that the tuition and other fees corresponding to scholarships should not be subsequently charged to the recipient students when they decide to quit school or transfer to another institution. The lower court decided in favor of the defendant University. Hence, this appeal. *Held,* that the stipulation in question is contrary to public policy and hence null and void. Memorandum No. 38 incorporates a sound principle of public policy. As the Director of Private Schools correctly pointed out, scholarships are awarded in recognition of merit, not to attract and keep brilliant students in school for their propaganda value. By entering into a contract of waiver with appellant, the defendant school understood scholarship awards as a business scheme designed to increase the business potential of an educational institution. Thus conceived, it is not only inconsistent with sound policy, but also with good morals. CUI *v.* ARELLANO UNIVERSITY, G.R. No. L-15127, May 30, 1961.

CIVIL LAW — PERSONS AND FAMILY RELATIONS — THE REQUIREMENT OF PROOF OF ACKNOWLEDGMENT OF A NATURAL CHILD IN A WILL REFERS TO THE WILL OF THE DECEASED PARENT AND NOT THAT OF ANY OTHER PERSON. — Gil Montilla died on July 30, 1946. In the intestate proceedings, Gertrudes Montilla intervened, alleging that she is an acknowledged natural child of the deceased. As evidence, she introduced the following: Exh. "A" —an entry in the marriage book citing that she, Gertrudes, daughter of Gil Montilla and Ines Serrano, was married to Horacio Ramos; Exh. "B"—*a will of a sister of Gil in which Gertrudes is referred to as the daughter of Gil;* Exh. "C"—a letter of Gil addressed to Horacio and Gertrudes containing the complimentary ending, "Vuestro Padre"; and Exh. "D" —another letter of of Gil containing the salutation "Querida Gertrudes" and the complimentary ending "Tu Padre." The petition was denied. Hence, this appeal. *Held,* although Exh. "B" is a will, it is not that of the deceased and cannot be considered evidence of acknowledgment, for according to Article 129 of the old Civil Code (now Article 276, N.C.C.) it is only the parents

jointly or separately who can recognize a natural child as their own. MONTILLA *v.* MONTILLA, G.R. No. L-14462, June 30, 1961.

CIVIL LAW—PRESCRIPTION—ACTIONS TO DECLARE THE INEXISTENCE OF CONTRACTS DO NOT PRESCRIBE. — Juan Garza, the administrator of the estate of the deceased spouses Alejandro Ros and Maria Isaac, was authorized, upon application, to sell certain parcels of land of the estate. On August 30, 1944, the administrator sold the land in question to Soler. On October 14, 1944, the heirs of Maria Isaac sold their shares over certain parcels of land to Soler. On May 9, 1956, Julian Boñaga the new administrator, filed an action to annul the sales of August 30th and October 14th, 1944, on the ground that they were fraudulent and made without notice to Alejandro Ros' heirs. The lower court dismissed the action sustaining the contention of the defendants that the action had prescribed. Hence, this appeal. *Held,* the claim of prescription is untenable. Actions to declare the inexistence of contracts do not prescribe, a principle applied even before the effectivity of the new Civil Code. The sale on October 1, 1944 by the heirs of Maria Isaac of whatever interests they might have in the four parcels of land may be valid, (De Guazon v. Jalandoni, L-5049, Oct. 31, 1953) yet, it could not have effected an immediate and absolute transfer of title over any part of the land, much less over their entirety. By the terms of the sale, not only was the existence of possible heirs of Ros recognized, but it also provided for the contingency that said heirs could yet be declared or adjudicated as the sole owners of the four parcels of land sold. (BONAGA *v.* SOLER, *et al.,* G.R. No. L-15717, June 30, 1961).

LABOR LAW—COURT OF INDUSTRIAL RELATIONS—THE CIR HAS JURISDICTION OVER CLAIMS FOR OVERTIME, SEPARATION AND DIFFERENTIAL PAY WHEN REINSTATEMENT IS SOUGHT.—Teodorico Gorme and seven others filed a petition with the Court of Industrial Relations for the recovery of overtime, separation, diferential pay and reinstatement with back pay. The respondent Court dismissed the petition for lack of jurisdiction following the rule in the case of PAFLU v. Tan (52 O.G. 5836). Thereafter, the respondents filed a petition to reopen the case on the ground that the CIR has jurisdiction following the ruling in the case of Gomez v. North Camarines Lumber Co. (G.R. No. L-11945, August 18, 1958). The CIR granted the motion. Hence, this petition. *Held,* that the CIR has jurisdiction over the case. It is now a settled rule that where the employer-employee relationship is still existing or is sought to be re-established because of its wrongful severance, the CIR has jurisdiction over all claims arising out of, or in connection with employment, such as those related to the Minimum Wage Law and the Eight-Hour Labor Law. After the termination of the relationship and no reinstatement is sought, such claims become mere money claims and come within the jurisdiction of the regular courts (Price Stabilization Corp. v. CIR,

G.R No. L-13806, May 23, 1960). The case, therefore, comes within the jurisdiction of the CIR. That the employees be 31 in number for the Court to acquire jurisdiction is not required of those claiming payment for overtime services and minimum wage and seeking reinstatement. THE PHIL. FOOD PRODUCTS, *et al. v. CIR, et al.,* G.R. No. L-15279, June 30, 1961.

LABOR LAW — EMPLOYER-EMPLOYEE RELATIONSHIP — WHERE THE OWNER OF AN ESTABLISHMENT HIRES A CONTRACTOR TO DO A PIECE OF WORK AND THE OWNER OF SAID ESTABLISHMENT HAS DIRECT CONTROL AND SUPERVISION OVER THE WORKERS OF THE CONTRACTORS, THE OWNER OF THE ESTABLISHMENT BECOMES THE STATUTORY EMPLOYER OF THE WORKERS OF THE CONTRACTOR. — The respondent Tuazon, Hizon and Ocampo Construction Co. undertook to build a bridge for the petitioner. Respondent contractor hired the husband of the respondent de la Pena, Napoleon Oliveros, a civil engineer to direct the construction of the bridge. The petitioner Manila Railroad Company exercised close supervision over the construction in order to assure compliance with the specifications in the contract. Oliveros, while directing said construction, was killed by one of the laborers. The widow filed her claim before the Workmen's Compensation Commission. The Commission held that the petitioner MRR is a statutory employer of the deceased and ordered said petitioner and respondent contractor, jointly and severally, to pay the widow compensation for the death of her husband. Is the petitioner MRR the statutory employer of the deceased? *Held,* from the cases of Shellborne Hotel v. de Leon (L-9149, May 31, 1951) and Caro v. Rilloraza (L-9569, Sept. 30, 1957) the following rule may be drawn — "Where the owner of an industrial or business establishment lets another do a certain piece of work or execute a particular job directly or necessarily connected with the conduct or pursuit of its usual or habitual business and the owner of the said establishment has direct supervision and control of the employees or workers of the person executing the job or work, the owner of the establishment ordering the execution of the work becomes the statutory employer of the employees of the said contractor. And he shall be liable under the Workmen's Compensation Act." Tested by the foregoing standard, the petitioner cannot escape liability. Petitioner is engaged in the transportation business. The construction of the bridge was directly or necessarily connected with the conduct of its usual or habitual business. Furthermore, the petitioner exercised close supervision over the construction of the bridge. THE MANILA RAILROAD CO. *v.* VDA. DE OLIVEROS, *et al.,* G.R. No. L-14204, June 30, 1961.

LABOR LAW—WORKMEN'S COMPENSATION ACT—AN EMPLOYER WHO HAS PAID COMPENSATION TO AN EMPLOYEE WHO IS INJURED SHALL SUCCEED THE INJURED TO THE RIGHT OF RECOVERY FROM THE PERSONS RESPONSIBLE FOR THE INJURY. — Virginia Clareza and her chil-

dren claimed damages for the death of Juan Luno (husband of Virginia), caused by the reckless negligence of the defendant Rosales, in colliding with the taxicab driven by the deceased. Thereafter, Zamora filed a motion for leave to intervene or be substituted for the plaintiffs, alleging that he, as owner of the taxicab, has paid compensation to the heirs of the deceased. The court of first instance of Manila dismissed both the complaint and the complaint in intervention. Thus, this appeal. *Held,* the dismissal of the complaint in intervention is improper. Fundamentally, a complaint in intervention is never an independent action, but is ancillary or suplemental to an existing litigation. In the case at bar, as the right of the original plaintiffs has ceased by virtue of the payment of compensation by the intervenor Zamora, then there is nothing to aid or fight for. The right of intervention has ceased to exist. However, under section 6 of the Workmen's Compensation Act, as amended, the employer who paid compensation to an employee shall succeed the injured to the right of recovery from those persons concerned, what he has paid to the injured employee. Therefore, the intervenor may be substituted as the party plaintiff. CLAREZA, *et al., v.* ROSALES, *et al.,* G.R. No. L-15364, May 31, 1961.

LABOR LAW — WORKMEN'S COMPENSATION ACT — WHERE THE EMPLOYER HAS KNOWLEDGE OF THE ACCIDENT RESULTING IN THE DEATH OF AN EMPLOYEE, THE FAILURE OR DELAY TO GIVE NOTICE OF THE ACCIDENT DOES NOT BAR THE WIDOW FROM FILING HER CLAIM UNDER THE WORKMEN'S COMPENSATION ACT. — The respondent Tuazon, Hizon and Ocampo Construction Co. undertook to build a bridge for the petitioner. Respondent contracted the husband of the respondent de la Pena, Napoleon Oliveros, a civil engineer, to direct the construction of the bridge. The Manila Railroad Company exercised close supervision over the construction in order to assure compliance with the specifications in the contract. Oliveros, while directing said construction, was killed by one of the laborers. The project engineer of the MRR knew of the accident and notified the Chief Train Dispatcher of the tragedy. Notwithstanding this the MRR did not submit its employer's report. The widow filed her claim before the Workmen's Compensation Commission. The claim was filed beyond the period required by law. However, the Commission held that the petitioner is a statutory employer of the deceased and ordered said petitioner and respondent contractor, jointly and severally, to pay the widow compensation for the death of her husband. The petitioner claims that since the filing of the claim by the widow was already beyond the period required by law, her cause of action is barred. *Held,* it is true that the respondent-widow filed her claim beyond the period required by law but section 27 of the Workmen's Compensation Act provides that failure to or delay is giving notice is not a bar to a proceeding herein provided for, if it is shown that the employer, his agent or representative has knowledge of the accident. THE MANILA RAILRJAD CO. *v.* VDA. DE OLIVEROS, *et al.,* G.R. No. L-14204, June 30, 1961.

LAND TITLES AND DEEDS — ACT 3344 — TO BE REGISTRABLE UNDER ACT 3344, THE INSTRUMENT MUST REFER TO UNREGISTERED LAND AND ITS IMPROVEMENTS ONLY. — Eduardo Calleja obtained a money judgment against Domingo and to satisfy the same, the house of the latter was levied upon. The house stands on a lot purchased by Mercedes, Domingo's wife, from Hoskins & Co., who retained title to it since it has not been fully paid. The notice of attachment which made mention of these facts was registered under Act No. 3344, since the house has not been registered under Act 496 or the Spanish Mortgage Law. Later, Hoskins & Co. transferred the ownership over the lot to Mercedes and since the latter still owed the former, a mortgage was executed thereon. Later, Mercedes, with her husband's consent, sold both the house and lot to the plaintiff Salita, who assumed the mortgage. In all these transfers the certificate of title to the land did not mention any improvement there or any attachment. Meanwhile, Calleja obtained a writ of execution and asked the sheriff to sell the attached house. Thereupon, the plaintiff filed an action for injunction and damages against Calleja and the sheriff to prevent the sale of the house. The court dismissed the complaint. Hence, this appeal. What is the effect of the registration, under Act 3344, of the attachment on the house erected on registered land? *Held,* that since, in the case at bar, the attachment refers to a house erected on registered land, it is evident that the registration thereof under Act No. 3344 was invalid and of no legal effect on third persons or more particularly the plaintiff herein. In order to be registrable under Act No. 3344, the instrument must refer to unregistered land and its own improvements only and not to any other kind of real estate or properties. The words "own" and "only" used in Section 194 of Act No. 3344 when referring to improvements clearly mean improvements on unregistered land only. In fine, the deed cannot refer to improvements or buildings on land registered under the Torrens System or the Spanish Mortgage Law. To hold otherwise, would result in the anomalous situation of two registrations — one under Act No. 496 with respect to improved land, and another under Act No. 3344 for improvements subsequently introduced on the same land. SALITA *v.* CALLEJA, *et al.,* G.R. No. L-17314, June 30, 1961.

LAND TITLES AND DEEDS — LAND REGISTRATION ACT — LANDS REGISTERED UNDER THE TORRENS SYSTEM MAY NOT BE ACQUIRED BY PRESCRIPTION OR ADVERSE POSSESSION. — The land in question was registered under the Torrens System in 1918. In 1924, Exequiel Ampil, the registered owner, sold the land to the defendant who took possession thereof and paid the taxes thereon up to 1955. However, the said sale was not registered, the title remaining in the name of Ampil. Ampil was indebted to various creditors; payment of the debt was guaranteed by the plaintiff. On October 21, 1933, Ampil executed a document entitled "Conditional Sale" in favor of the plaintiff. On February 12, 1937, by virtue of the affidavit of consolidation filed by the plaintiff, the title of Ampil was cancelled and a new

certificate of title was issued in the name of the plaintiff. The defendant pointed out that since he was in adverse possession of the land since 1924, he has already acquired title over the land by prescription. *Held,* the contention is without merit. Lands registered under the Torrens System are imprescriptible. RODRIGUEZ *v.* FRANCISCO, G.R. No. L-12039, June 30, 1961.

LAND TITLES AND DEEDS — LAND REGISTRATION ACT — PRIOR UNREGISTERED SALE OF A REGISTERED LAND DOES NOT AFFECT AN INNOCENT THIRD PERSON WHO SUBSEQUENTLY PURCHASES THE SAME LAND AND TO WHOM CERTIFICATE OF TITLE IS ISSUED. — The land in question was registered under the Torrens System in 1918. In 1924, Exequiel Ampil, the registered owner, sold the land to the defendant who took possession thereof and paid the taxes thereon up to 1955. However, the said sale was not registered, the title remaining in the name of Ampil. Ampil was indebted to the various creditors; payment of the debts was guaranteed by the plaintiff Rodriguez. On October 21, 1933, Ampil executed a document entitled "conditional sale" in favor of the plaintiff. The sale states: that the vendor sold to the vendee the real properties described therein in consideration of the obligation assumed by the vendee — to pay what the vendor owed to several parties; that if the vendor paid the debts aforesaid, the sale made shall become inoperative and void, but that if the vendee paid the same debts by reason of the vendor's failure to do so, the sale made shall become absolute and irrevocable automatically, without the need of executing any other deed of conveyance. On Feberuary 12, 1937, by virtue of the affidavit of consolidation filed by the plaintiff, the title of Ampil was cancelled and a new certificate of title was issued in the name of the plaintiff. The defendant contends that being a prior vendee his right is superior to that of the plaintiff who only bought the land subsequently. *Held,* untenable. Being a registered land under Act No. 496, the registration of its transfer (in accordance with law) is the operative act in order to bind innocent third persons. So, the plaintiff has a superior right because although the sale between the defendant and Ampil was executed in 1924 it was never registered in accordance with law. On the other hand, the deed of sale in favor of the plaintiff executed in 1933 was duly registered. RODRIGUEZ *v.* FRANCISCO, G.R. No. L-12039, June 30, 1961.

LEGAL ETHICS — DISBARMENT — WHERE THE ACT WHICH CONSTITUTES GROSS MISCONDUCT IN OFFICE AND A VIOLATION OF THE OATH OF OFFICE IS DONE NOT FOR MONETARY CONSIDERATIONS BUT OUT OF PURE GENEROSITY, THEN DISBARMENT IS TOO SEVERE. — This is an administrative case for the disbarment of the respondents. Complainant's daughter, Adoracion, was employed as a secretary in respondent's office. She fell in love with one Eugenio, already married to Marta Cruz, but still willing to

marry Adoracion provided that the latter subscribed to a written instrument professing her knowledge of his marital status. The confused Adoracion sought the aid of her attorney employer, who at first refused, explaining to her that such affidavit is immoral and illegal, but because of the woman's pleas, finally drafted the affidavit and had it notarized accordingly. The complainant, knowing of Eugenio's civil status, filed a charge for bigamy. On the other hand, Marta Cruz accused Adoracion and Eugenio for bigamy too. Eugenio filed a complaint for perjury against Adoracion. It turned out, however, that Eugenio had divorced Marta Cruz during the Japanese occupation. Both Eugenio and Adoracion were acquitted. The question left to be resolved is whether or not the respondent's acts in preparing and ratifying the instrument constitute gross misconduct in office. *Held,* that the affidavit is immoral is undisputed. Respondent's only explanation is that they did not have the heart to refuse help to Adoracion. They, therefore, committed a disgraceful act which constituted gross misconduct in office and a violation of their oath of office as attorneys, warranting disciplinary action. But having done such not for monetary consideration but out of pure generosity, then they are entitled to a lenient treatment. They are, consequently, severely censured with the admonition that a repetition of such act in the future will be dealth with severely. ACUNA *v.* DUNCA, et al., Admin. Case No. 138, May 31, 1961.

POLITICAL LAW — ADMINISTRATIVE LAW — AN INCREASE IN AN APPROPRIATION OR SALARY DOES NOT AUTOMATICALLY ENTITLE THE HOLDER OF THE POSITION TO SUCH INCREASED SALARY. — The petitioners are members of the Detective Bureau of the Manila Police Department. On different dates, they were dismissed from the service by the respondent mayor. The petitioners filed suit for reinstatement. By order of the court, they were reinstated and paid their salaries at the same rate that they were receiving prior to their dismissal. Meanwhile, during the petitioners' separation the respondent mayor approved budget ordinances increasing the salaries of personnel of the Police Department. As the petitioners were not extended the benefit of these ordinances, they formally demanded from the respondent mayor the payment of the salary increases, but their demand was denied. In the CFI of Manila, it was established that petitioners' average length of service spanned more than 22 years, individually ranging from 12 to 34 years. Their efficiency ratings have consistently been well above 85%. No evidence of any pending administrative or criminal charges exists against almost all of the petitioners at the time the ordinances took effect up to the present. The lower court ruled for the petitioners. Hence, this appeal. *Held,* while the petitioners have shown themselves entitled to promotion, they are not entitled to back salaries, for as we have held in Board of Directors of the Phil. Charity Sweepstakes Office v. Alandy, (G.R. No. L-15391, Oct. 31, 1960) "an increase in appropriation or salary should not automatically entitle the holder of the position to such increased salary." Furthermore, Section

256 of the Revised Administrative Code provides that "appointments are not to take effect prior to the date of appointment, unless so provided by the Head of Department for exception reasons." GESOLGON, *et al., v.* LACSON, *et al.,* G.R. No. L-16507, May 31, 1961.

POLITICAL LAW—CONSTITUTIONAL LAW—WHERE THE APPLICANT FOR NATURALIZATION, BEFORE TAKING THE OATH, CONSENTS TO THE PLACING OF HIS CITIZENSHIP AS FILIPINO IN A DEED OF SALE OF REALTY WHERE HE IS THE VENDEE, HE HAS VIOLATED THE PROVISIONS OF THE NATURALIZATION LAW — On October 22, 1956, the lower court issued an order declaring the petitioner qualified to become a Filipino citizen. On October 7, 1958, the petitioner filed a petition to set a date for his oath-taking, alleging that the two-year probationary period would expire on October 21, 1958. On this latter date, the petitioner presented evidence to show that he has complied with the provisions of R. A. No. 530 which prescribes the requisites before an alien could be allowed to take his oath of allegiance. On cross-examination, however, the petitioner admitted that on February 5, 1957, while still a Chinese citizen, he entered into an agreement to sell with the Sta. Mesa Realty, Inc., involving a parcel of land payable in install ments for ten years, and consented to the placing of his citizenship therein as "Filipino." The court of first instance denied his petition to take the oath of allegiance. Hence, this appeal. Was the act of the petitioner in consenting to the placing of his citizenship as Filipino in the deed of sale violative of the Naturalization Law? *Held,* the order appealed from is affirmed. The inhibition against acquisition by aliens of private agricultural lands in the Philippines embodied in the Constitution is undoubtedly a government announced policy. Petitioner's actuations surrounding the execution of the agreement to sell are contrary to such a policy. By consenting to the placing of his citizenship therein as "Filipino," he has arrogated unto himself a prized attribute of citizenship which he has not yet possessed. Upon the execution of the document and payment of the first installment, the petitioner has acquired a right over the property which he can immediately enforce. It is true that ownership is transferred to the petitioner only after 10 years, during which time he expects to have already the status of a naturalized Filipino with all the privileges implicit in said citizenship, but he has nevertheless no right to presume that he would be admitted to Philippine citizenship upon the expiration of the two-year period prescribed by law. Strict compliance with the provisions of R.A. No. 530 is essential. TAN TIAN *v.* REPUBLIC, G.R. No. L-14802, May 30, 1961.

POLITICAL LAW — CONSTITUTIONAL LAW — LAWS ENACTED IN THE EXERCISE OF POLICE POWER, TO WHICH R. A. No. 1199 BELONGS, MAY AFFECT TENANCY RELATIONS CREATED BEFORE THE ENACTMENT OR EFFECTIVITY THEREOF. — Rufina Subastil, respondent herein, filed a complaint in the CFI of Camarines Sur seeking to eject the petitioners Luciano Valencia and Francisca Ocampo from her riceland. Said petitioners, not having filed a responsive pleading, were declared in default. After receiving the evidence for the plaintiff, the lower court found that since 1950 the petitioners were tenants of Subastil, but because of their failure to pay the rentals of the land the lower court ordered them to vacate the premises. Petitioners filed a motion for reconsideration on the ground that the lower court had no jurisdiction over the subject-matter, the same being exclusively cognizable by the Court of Agrarian Relations. This motion was denied and the respondent judge issued an order directing the execution of the decision. Hence, this petition for certiorari. The issue raised by the parties is whether or not the court of first instance has jurisdiction over the case. It is contended that R.A. No. 1199, which took effect on August 30, 1954, is inapplicable to the parties in the present case, their relation as landlord and tenant having begun prior thereto. *Held,* that this contention is untenable. This case was begun in 1959 when R.A. No. 1199 was already in force. The application of this statute to said case would, therefore, be prospective in nature, aside from the fact that it is already settled that laws enacted in the exercise of the police power, to which said Act belongs, may constitutionally affect tenancy relations created before the enactment or effectivity thereof (Vda. de Ongsiako v. Gamboa, 47 O.G. 5613). Again, respondent judge having found that the petitioners are tenants of an agricultural land, their ejectment is beyond the court of first instance's jurisdiction for this case comes exclusively within the jurisdiction of the Agrarian Court pursuant to Section 21 of R.A. No. 1199 and Section 7 of R.A. No. 1267. VALENCIA, *et al., v.* SURTIDA, *et al.,* G.R. No. L-17277, May 31, 1961.

POLITICAL LAW — CONSTITUTIONAL LAW — A PETITION FOR CONTINUATION OF NATURALIZATION PROCEEDINGS MAY BE FILED AFTER FINAL DECISION IS RENDERED, BUT BEFORE IT BECOMES EXECUTORY. — On March 31, 1953, the CFI of Manila granted the petition for naturalization filed by Lee Pa. When the decision became executory, Lee Pa failed to ask for its execution. Thereafter, he died. His widow, for herself and in behalf of her children who were minors, invoking Section 16 of C.A. No. 473, filed a petition praying to continue the proceedings and then to take the oath of allegiance. The court denied the petition. Hence, this appeal. Is Section 16 of C.A. No. 473 applicable where the petitioner dies after the decision becomes final, but before it becomes executory? *Held,* the order dismissing the petition is set aside. Judgments in naturalization cases will not become final, strictly speaking, until after the certificate of naturalization is issued and after the compliance with the requisites of Section 1 of R.A. No. 530. True, Section 16 of C.A. No. 473 starts with a condition "in case a petitioner should die before the final decision has been rendered x x x" but when Section 16 was enacted, there was no need to provide for the situation where the death occurs after the decision is rendered, because R.A. No. 530

had not been in existence yet. And even if the decision has become final, still there is no prohibition that the petition for continuation of the proceedings may also be presented after final decision is rendered but before it becomes executory. In this case, the widow asked that she be allowed to take the oath of allegiance once the natuaralization proceedings of her dead husband shall have been completed, in her own behalf and of her minor children by virtue of Section 15 of C.A. No. 473. The records show that the widow could be lawfully naturalized apart from the fact that her minor children were all born in the Philippines. TAN LIN, *et al.*, *v.* REPUBLIC G.R. No. L-1386, May 31, 1961.

POLITICAL LAW — CONSTITUTIONAL LAW — A PETITION FOR NATURALIZATION SHOULD BE FILED IN THE CFI OF THE PROVINCE IN WHICH THE PETITIONER HAS RESIDED AT LEAST ONE YEAR IMMEDIATELY PRECEDING THE FILING OF THE PETITION IN ORDER THAT SUCH COURT SHALL HAVE EXCLUSIVE ORIGINAL JURISDICTION TO HEAR THE SAME.—Petitioner was born in Gingoog, Misamis Oriental, where he pursued and completed both his primary and elementary education. In his alien certificate of registry and in his native-born certificate of residence, Gingoog was listed as his place of residence. In 1951 he went to Cebu to study and he was at the same time employed at a drug store owned by his uncle. In 1954, he went to Manila to study, receiving monthly allowances from his parents living in Gingoog. The present petition for naturalization was filed in the court of first instance of Cebu. The issue is whether the court of first instance of Cebu acquired jurisdiction to try the case. *Held,* the court of first instance of Cebu had no jurisdiction to hear the petition and render judgment thereon. Section 18 of C.A. No. 530 provides that a petition for naturalization should be filed in the court of first instance of the province where the petitioner has resided at least one year immediately preceding the filing of the petition, and such court shall have exclusive original jurisdiction to hear the same. Legal residence is the place from which one might depart and be absent temporarily for a certain purpose and to which one always intends to return. Furthermore, it is an accepted rule that once a domicile or residence is established, the same continues until he abandons it without any intention of returning. The record does not show that the petitioner has complied with the above rules. He was born in Gingoog. If he went to Cebu, it was for no other purpose than to study. Being a mere dependent of his parents who resided in that town, petitioner's legal residence is Gingoog, which he has not abandoned expressly or impliedly. SY CEZAR *v.* REPUBLIC, G.R. No. L-14009, May 31, 1961.

POLITICAL LAW — EXPROPRIATION — THE WORDS "TENANTS OR OCCUPANTS" USED IN ACTS PROVIDING FOR THE EXPROPRIATION OF LANDED ESTATES TO BE SOLD AT COST TO TENANTS OR OCCUPANTS DO NOT INCLUDE

SQUATTERS. — The Government acquired through expropriation the property known as Fabie Estate in Paco, Manila. Thereafter, the estate was subdivided into small lots for sale or lease to the tenants or occupants. Occupants of portions traversed by proposed streets had to be re-allocated to unoccupied portions wthin the estate. One of these tenants was Perfecto Magaway whose house was found to be within the road lot. Consequently, he was re-allocated to a vacant lot. However, Magaway could not take possession of the lot because appellant Caliwan had entered the same and constructed thereon a makeshift house (*barong-barong*). The Land Tenure Administration filed ejectment proceedings against the appellant. The appellant claims that she is included in the word "occupant" as used in R.A. No. 1162 which authorizes the present expropriation. Section 3 of said Act provides: "The landed estates or haciendas expropriated by virtue of this Act shall be subdivided into small lots, none of which shall exceed 150 sq. meters in area, to be sold at cost to the tenants, or occupants, of said lots and to other individuals in the order mentioned;" *Held,* that the appellant is not entitled to the lot in question. This Court has already held in a number of cases that persons guilty of illegal entry cannot invoke the benefits of C.A. Nos. 20 and 539 (expropriation acts providing for expropriation of landed estates to be sold at cost to their *bona fide* tenants or occupants), the purpose of these laws being to aid and benefit lawful occupants and tenants or those endowed with legitimate tenure, by making their occupancy permanent and giving them an opportunity to become owners of their holdings. In short, these laws are not meant for the benefit of the lawless. R.A. No. 1162 should be given the same interpretation and application. The absence of the term "*bona fide*" in qualifying tenants and occupants in the Act is of no consequence for, unless the contrary appears, only those in good faith are intended. The law did not intend to benefit squatters. REPUBLIC *v.* VDA. DE CALIWAN, G.R. No. L-16927, May 31, 1961.

POLITICAL LAW — PUBLIC CORPORATIONS — THE POWER OF THE MUNICIPAL BOARD TO REGULATE THE OPERATION OF COCKPITS DOES NOT INCLUDE THE AUTHORITY TO FIX THE DATE ON WHICH COCKFIGHTING MAY BE HELD.—The petitioner Quimsing is the owner and manager of a duly licensed cockpit in the city of Iloilo. On February 13, 1958, the cockpit was raided by the respondents on the ground that it was being illegally operated on that day, which was Thursday, not a legal holiday. Quimsing claimed that the cockpit was authorized to operate on Thursday by an ordinance of the City, approved on October 31, 1956. This notwithstanding, the respondents threatened to raid the cockpit should cockfighting be held therein on Thursdays. Subsequently, after the raid, Quimsing and nine other persons were arrested and charged with violation of Article 199 of the Revised Penal Code in relation to Sections 2285 and 2286 of the Revised Administrative Code. Quimsing, in turn, filed a petition for a writ of preliminary injunction to restrain the respondents and/or their agents from stopping

the operation of said cockpit on Thursday. The lower court dismissed the petition. Hence, this appeal. The question for determination is whether the power of the municipal board of Iloilo, under Sec. 21 of its charter, to regulate places of amusement, as broadened by R.A. No. 938, as amended, to include the power to regulate by ordinance the establishment, maintenance and operation of cockpits, carries with it the authority to fix the date on which cockfighting may be held. *Held,* that the city ordinances relied upon by the petitioner authorizing cockfighting on Thursday are invalid. An affirmative answer to the question would necessarily imply, not merely an amendment of Sections 2285 and 2286 of the Revised Administrative Code, but even a virtual repeal thereof, for then local boards or councils could authorize holding of cockfighting on any day and as often as said boards or councils may deem fit to permit, whether it be during a fair, carnival or not. Moreover, the authority of local governments under R.A. No. 938, as amended, to regulate the establishment, maintenance and operation of cockpits does not necessarily connote the power to regulate cockfighting, except insofar as the same must take place in a duly licensed cockpit. The authority conferred in said Act may include the power to determine the location of cockpits, the type of construction used therefor, the conditions to be observed for the protection of persons therein, the number of cockpits that may be established and the distances to be observed, the minimum age of individuals who may be admitted therein and other matters of similar nature as distinguished from the days on which cockfighting shall be held and the frequency thereof. QUIMSING, *v.* LACHICA, G.R. No. L-14683, May 30, 1961.

POLITICAL LAW — TAXATION — THE FACT THAT A SUIT WAS FILED FOR THE DECLARATION OF NULLITY OF ORDINANCES IMPOSING A TAX AND FOR THE RECOVERY OF TAXES PAID THEREUNDER, TAX PAYMENTS ARE DEEMED TO BE MADE UNDER PROTEST. — The Supreme Court, on January 22, 1958, rendered judgment in the case of Santos Lumber Co. v. City of Cebu, declaring *ultra vires* City Ordinances Nos. 92 and 116, imposing upon every person, individual, company or corporation engaged in the sale of lumber a tax of two pesos for every first local sale of 1,000 board feet of lumber sold during the month and ordering the City of Cebu to return to the appellants the taxes paid by virtue of such ordinances. The decision having been final and executory, the plaintiffs filed a petition in the lower court for the issuance of a writ of execution of said judgment. The defendants objected on the ground that in order that a refund for the taxes paid may be validly had, it is necessary that the same be paid under protest, and since the plaintiffs in some instances had paid under protest and in others not, only those amounts paid under protest should be refundable. The lower court ordered the defendant to refund the taxes, whether paid under protest or not. The defendants appealed. *Held,* that the decision appealed from is affirmed. For the recovery of taxes paid, a protest is a condition precedent when the charter so requires. The charter of the City of Cebu, C.A. No. 8, as amended, does not require or provide for such protest as a condition precedent for the recovery of taxes, and the fact that the plaintiffs filed suit for the declaration of nullity of the ordinances in question and for the recovery of taxes paid there under, tax payments are deemed to be made under protest. SANTOS LUMBER CO. *v.* CITY OF CEBU, G.R. No. L-14618, May 30, 1961.

POLITICAL LAW — TAXATION — MONEY SOLICITED FROM DIFFERENT PERSONS AND GIVEN TO A SCHOOL TO HELP THE SAME, IS NOT SUBJECT TO GIFT TAX, SINCE SUCH MONEY COMPRISES THE SEPARATE CONTRIBUTIONS OF INDIVIDUALS. — To solve the financial difficulties that faced the St. Stephen's Chinese Girls School, the respondent St. Stephen's Association solicited contributions from different persons and the amount collected was denominated as Endowment Fund for the school. In 1950, the Association delivered to the school the sum of ₱9,252.08 as school fund. Because the receipt of this amount was entered in the books of the school as "gift received," the Collector of Internal Revenue assessed against the respondents donor's and donee's gift taxes. The Court of Tax Appeals held that the money given was not a gift of the respondent association, but that of different persons who had contributed to the Endowment Fund and as none of these separate contributions were taxable according to the Collector himself, then no gift tax was due on the transfer. The Collector of Internal Revenue appealed from this decision. *Held,* the judgment appealed from is affirmed. In this appeal, the Collector does not dispute the finding of the Court of Tax Appeals that the money really came from the individuals who had contributed to the fund. As none of these contributors had given more than ₱1,000 then no donor's or donee's tax was demandable. COLLECTOR OF INTERNAL REVENUE, *v.* ST. STEPHEN'S ASSOCIATION, *et al.,* G.R. No. L-15562, May 31, 1961.

REMEDIAL LAW — CIVIL PROCEDURE — NOTICE GIVEN ORALLY IN OPEN COURT AS TO THE DENIAL OF A MOTION DOES NOT CONSTITUTE SERVICE UNDER RULE 27 OF THE RULES OF COURT. — The plaintiff filed a complaint for forcible entry and unlawful detainer against the defendant. Judgment was against the defendant and he appealed to the court of first instance. On March 27, 1958, or two days after receipt of the notice of the docketing of the case, the defendant filed a motion to dismiss. On May 17, 1958, the court denied the same of which the parties were notified in open court, but copy of the order of denial was sent to the defendant only on June 25th and received by the latter on June 27, 1958. On June 30, 1958, the defendant filed his answer. The court declared him in default, it being of the opinion that the running of the period within which to file the answer was resumed on May 17, 1958, when the parties were notified of the denial. *Held,* that notice given orally in open court as to the denial of a motion is not sufficient and does not constitute service under Rule 27 of the Rules of Court. To be effective, service of the denial of the motion should be made either personally or in writing (Section 3, Rule 27, Rules of Court). The 15-day

period commenced to run on March 25, 1958. It was interrupted on March 27, 1958, when the defendant filed a motion to dismiss. The period resumed to run on June 27, 1958, so that the defendant had still up to July 10, 1958 within which to file his pleading. As he submitted his answer on June 30, 1958, it is obvious that it is was filed on time. PINEDA *v.* VELOIRA, G.R. No. L-15145, June 30, 1961.

REMEDIAL LAW — CRIMINAL PROCEDURE — A SWORN WRITTEN COMPLAINT NEED NOT BE FILED IN THE OFFICE OF THE FISCAL BEFORE HE CAN CONDUCT THE REQUIRED PRELIMINARY INVESTIGATION PREPARATORY TO THE FILING OF A FORMAL CHARGE, EXCEPT IF THE OFFENSE IS ONE WHICH CANNOT BE PROSECUTED DE OFICIO OR IS PRIVATE IN NATURE OR WHEN IT PERTAINS TO THOSE CASES WHICH NEED TO BE ENDORSED BY SPECIFIED PUBLIC OFFICERS. — Cong. Delfin Albano sent two unsworn letters to the city fiscal of Manila denouncing the petitioner Jaime Hernandez as having interest in the Bicol Electric Co., U.E., University of Nueva Caceres, DMG Corp., and Rural Bank of Nueva Caceres. These letters gave rise to the docketing in the city fiscal's office of five separate charges accusing the petitioner with the violation of Article 216 of the Revised Penal Code, C.A. No. 626, and R.A. No. 265. The charges were set for preliminary investigation. At the initial hearing, the petitioner moved to dismiss on the ground that respondent Albano is not one of those competent persons to subscribe to a complaint under Section 2, Rule 106 of the Rules of Court. The motion was denied, as well as the two motions for reconsideration. The petitioner filed with the CFI of Manila a petition for prohibition with preliminary injunction seeking to prohibit the respondents from conducting the preliminary investigation on the ground that a complaint filed in the fiscal's office must be sworn to as required by Section 2, Rule 106 of the Rules of Court; and since Cong. Albano has not sworn to the five charges, respondent fiscals were acting in excess of their authority. The petition was denied. Hence, this appeal. *Held,* that the appeal is without merit. By virtue of Sections 38-B and 38-C of R.A. No. 409, Section 1687 of the Revised Administrative Code, the city fiscal and his assistants, in the same manner as provincial fiscals, are vested with the power and authority to investigate charges of crimes and violations of ordinances irrespective of whether the person who complains is the offended party or not. Said provisions do not require that a sworn written complaint be first filed before the city fiscal in order that he may investigate the case complained of, except of course if the offense is one which cannot be prosecuted *de oficio* or is private in nature where the law requires that it be started by a complaint sworn to by the offended party, or when it pertains to those cases which need to be endorsed by specified officers as required in Section 2, Rule 106 of the Rules of Court. With the exceptions already mentioned, a sworn written complaint is not necessary to be filed in the office of the fiscal before he can start the required preliminary investigation preparatory to the filing of a formal charge. The complaint in Section 2, Rule 106 of the Rules of Court is the one filed in the court and not the one filed in the office of the city fiscal. HERNANDEZ *v.* ALBANO, *et al.,* G.R. No. L-17081, May 31, 1961.

REMEDIAL LAW — CRIMINAL PROCEDURE — THE SUBSEQUENT ARREST OF THE PRINCIPAL ON ANOTHER CHARGE WHILE HE IS OUT ON BAIL, DOES NOT OPERATE IPSO FACTO AS A DISCHARGE OF HIS BAIL. — Otiak Omal was charged with robbery in band in the CFI of Cotabato. The Luzon Surety Co., Inc. filed a bail bond for his provisional release. Subsequently, Omal was arrested anew and charged with rape. While under the custody of the Governor, he escaped. The surety filed an *ex-parte* motion for withdrawal of the bail bond. The surety contended that its inability to produce the person of Omal was due to the negligence of the provincial warden and Governor, which facilitated the escape of the prisoner. *Held,* it was stated in U.S. v. Bunuan (22 Phil. 1) and in U.S. v. Sunico (40 Phil. 826) that bail will be exonerated where the performance of its condition is rendered impossible by the act of God, the act of the obligee or the act of law. The negligence of the warden and the Goveronor is sufficient to justify the cancellation of the bond. A surety is a jailer of the accused and is responsible for the latter's custody. It is not merely his right but his obligation to keep the accused at all times under his surveillance, considering that his authority emanating from his character as surety is no more nor less than the government's authority to hold the accused under preventive imprisonment (People v. Tuising, 61 Phil. 404). In the present case the surety took no steps when Omal was rearrested nor did it ask for the cancellation of the bond until after Omal's escape. Since the bond was still valid, it must be presumed that the surety chose to continue with its liability and should be held accountable for what may later happen to the accused. It has been held that "the subsequent arrest of the principal on another charge, while he is out on bail, does not operate *ipso facto* as a discharge of his bail. Thus, if while in custody on another charge, he escapes, or is again discharged on bail and is a free man when called upon his recognizance to appear, his bailors are bound to produce him." (6 C.J. 1026). PEOPLE OF THE PHILIPPINES *v.* OTIAK OMAL, G.R. No. L-14457, June 30, 1961.

REMEDIAL LAW — CRIMINAL PROCEDURE — WHERE THE PRINCIPAL ISSUES IN BOTH CIVIL AND CRIMINAL CASES ARE THE SAME AND ARISE FROM THE SAME FACTS, IT IS NOT NECESSARY THAT THE CIVIL CASE SHOULD FIRST BE RESOLVED BEFORE TAKING THE CRIMINAL CASE. — The debtors Yu B. Chiong, Ong Ho, Ching Siok Eng, and the petitioner Ibañez executed a real estate mortgage in favor of the Philippine National Bank to secure Chiong's indebtedness. When Chiong's indebtedness increased, the mortgage was amended. The PNB filed Civil Case No. 994 against Ching Siok Eng and Ong Ho for the foreclosure of the mortgage. Against the decision rendered in favor of the PNB, the defendants have appealed. On

July 24, 1957, Ong Ho filed a complaint (Civil Case No. 33251) against the PNB and the petitioners for the annulment of the two deeds of mortgage, claiming that the signatures purporting to be his in said documents were forgeries. Thereafter, Ong Ho filed a criminal complaint against the petitioners for falsification of the deeds of mortgage involved in Civil Case No. 994. The petitioners filed a motion to dismiss the criminal complaint on the ground that prejudicial questions are involved, in which case the civil case should first be resolved before proceeding with the criminal case. The City Fiscal denied the motion. Hence, this petition to prohibit the respondent Fiscal from proceeding with the investigation of the criminal charge was filed. *Held,* that the petition is denied. In the civil case for annulment of the deed of mortgage, the issue is that the signatures of Ong Ho appearing therein are forged. In the criminal case, the issue is likewise the falsification of the deeds in question. When the principal issues in both cases are the same and arise from the same facts, it is not necessary that the civil case should be resolved first before taking the criminal case. BENITEZ, *et al., v.* CONCEPCION, *et al.,* G.R. No. L-14646, May 30, 1961.

REMEDIAL LAW — SPECIAL PROCEEDINGS — A SALE OF PROPERTIES OF THE ESTATE OF A DECEASED AS BENEFICIAL TO THE INTERESTED PARTIES MUST BE MADE ONLY AFTER DUE NOTICE TO THE HEIRS AND A HEARING OF THE APPLICATION FOR AUTHORITY TO SELL. — Following the death of the spouses Alejandro Ros and Maria Isaac in 1935 and 1940, respectively, intestate proceedings for the settlement of their estate was commenced in the CFI of Camarines Sur. Upon application, Juan Garza, the administrator of the estate, was authorized to sell certain parcels of land of the estate. On August 31, 1944, the administrator sold said land to Soler. On October 14, 1944, the heirs of Maria Isaac sold their shares over certain parcels of land of the estate to Soler. On May 9, 1956, Julian Bonaga, the administrator, filed an action to annul the sales of August 30th and October 14th, 1944, on the ground that they were fraudulent and made without notice to Alejandro Ros' heirs. The court dismissed the action. Hence, this appeal. *Held,* that the lower court erred in dismissing the action without a hearing on the merits. A sale of properties of an estate as beneficial to the interested parties, under Sections 4 and 7, Rule 90 of the Rules of Court, must comply with the requisites therein provided, which are mandatory. Without them, the authority to sell, the sale itself and the order approving it, would be void *ab initio.* Nothing in the record would show whether, as required by Rule 90, Sections 4 and 7, Rules of Court, the application for authority to sell was set for hearing, or that the court ever caused notice thereof to be issued to Ros' heirs. Incidentally, these heirs were then allegedly in Spain. Rule 90 does not distinguish between heirs residing in and outside of the Philippines. Therefore, its requirements should apply regardless of the place of residence of those required to be notified under said Rule. BONAGA *v.* SOLER, *et al.,* G.R. No. L-15717, June 30, 1961.

CIVIL LAW — CONTRACTS — IN AN ASSIGNMENT OF CREDIT THE CONSENT OF THE DEBTOR IS NOT ESSENTIAL, NOR IT IS NECESSARY TO MAKE HIM LIABLE TO THE ASSIGNEE. — On July 16, 1947, the defendant purchased with a chattel mortgage from Elizalde Motors Inc. a de Soto truck. Down payment was made and the balance was to be paid in six monthly installments, for which the defendant executed six promissory notes to secure the payment of the balance. On August 18, 1947, the defendant again purchased another de Soto truck from Elizalde Motors under the same arrangement as the first purchase, made a down payment and signed six promissory notes for the balance. From January 20 to October 22, 1947, Elizalde Motors made repairs and sold materials on credit to the defendant. Part of this credit remains unpaid. On July 16, 1949, Elizalde Motors ceded and transferred its credit to the plaintiff Elizalde & Co., Inc. On August 16, 1949, the plaintiff made a formal demand for payment. The court of first instance rendered judgment ordering the defendant to pay to the plaintiff the balance on the promissory notes and accounts receivable. The defendant appealed. The issue is whether or not the assignment of the credit without the prior consent of the debtor is valid. *Held,* in an assignment of credit the consent of the debtor is not essential, nor is it necessary to make him liable to the assignee. The corresponding Articles 1625, 1626 and 1627 of the new Civil Code do not require the consent of the debtor to an assignment of credit for the validity thereof and to render him liable to the assignee. The law speaks not of consent but of notice to the debtor. The purpose of this notice is to inform the debtor that from the date of the assignment he should make payment to the assignee and not to the original creditor. The notice is thus for the protection of the assignee because before the said notice, payment to the original creditor is valid. ELIZALDE & CO., INC. *v.* BINAN TRANSPORTATION CO., (CA) No. 12037-R, April 6, 1960.

CIVIL LAW — CREDIT TRANSACTIONS — A CHATTEL MORTGAGE CONSTITUTED ON A HOUSE IS A NULLITY AND ITS REGISTRATION IN THE CHATTEL MORTGAGE REGISTRY IS MERELY A FUTILE ACT. — On October 9, 1950, Dolores Genove constituted a mortgage on a house in favor of Salvador Villareal to secure a loan. The mortgage was not registered. On December 23, 1952, she again mortgaged the same house to Antero Manalo. This mortgage was registered in the Chattel Mortgage Registry. On January 14, 1954, in view of her failure to pay off Salvador Villareal, Dolores Genove executed a conditional sale of the same house with Villareal as the vendee. Dolores failed to pay off Antero Manalo, so that the latter foreclosed the mortgage, resulting in the public auction sale of the house on April 5, 1956