LAND REGISTRATION

LEGAL INCIDENTS TO REGISTRATION

Where Land Previously Sold, Is By Mistake Registered In The Vendor's Name, A Trust In The Vendee's Favor Is Created; Cestui Que Trust's Action To Compel Conveyance Does Not Prescribe.

FACTS: Canlas sold a piece of land to Manalang. Subsequently, however, in the cadastral proceedings, the land was adjudicated to Canlas. Canlas, nevertheless, promised to deliver the Title upon its issuance. Canlas died before said Title was issued. In this action by Manalang for reconveyance, the heirs of Canlas moved for dismissal on the ground that, as the action was brought after 10 years from the sale and after 1 year from the issuance of the cadastral court's decree, the same had already prescribed.

HELD: The action of plaintiff is an action for the specific conveyance of the property registered in the name of the defendant's predecessor in interest. The deceased vendor was issued the certificate of title for and in behalf, and in trust for the plaintiffs. The action is one brought by the cestui que trust to compel the trustee to execute a conveyance of the property in trust and the same does not prescribe. (MANALANG ET AL. *v.* CANLAS ET AL., G. R. No. L-6307, April 20, 1954.)

Where Land Previously Transferred Is Adjudicated To The Transferor By The Cadastral Court, The Transferee May Choose Between Reopening The Cadastral Case Before The Decree Becomes Incontrovertible And Filing An Independent Action For Recovery.

FACTS: The land in litigation was sold by defendant in

1936 to Santos. By successive transfers, it became plaintiff's property. In 1941, however, the land was claimed by defendant in the cadastral survey and was adjudicated to him by the cadastral court. Plaintiff instituted a civil action for recovery of title, and the CFI rendered judgment in his favor. In this appeal, defendant claims that the civil case should have been dismissed since plaintiff's proper remedy was to move for the reopening of the cadastral case.

HELD: It is true plaintiff could have moved for the reopening of the cadastral case since the cadastral decree does not become incontrovertible till after 1 year; but plaintiff chose to file this civil action and since he is entitled to the land, the CFI's decision should be affirmed without prejudice to plaintiff's right to petition the cadastral court for the adjudication thereof in his favor. (SANTOS *v.* ICMON, G. R. No. L-6094, August 27, 1954.)

Period For The Repurchase Of Registered Land Commences, As Against The Vendor A Retro, On The Date Agreed Upon; Sec. 50, Land Registration Act, Applied.

FACTS: In 1940, Galanza sold, with right of repurchase within 5 years from that date, a registered parcel of land to Nuesa. However, the sale was registered only in 1947. In 1951, Galanza brought action for the reconveyance of the land. The CFI rendered judgment for Galanza, holding that the 5-year period should be computed from the registration of the sale since Sec. 50 of the Land Registration Act provides that "the act of registration shall be the operative act to convey and affect the land."

HELD: Indeed, Sec. 50 provides that, even without registration, a deed affecting registered land shall operate as a contract between the parties. Registration is intended to protect the buyer against claims of third parties arising from subsequent alienations by the vendor, and is certainly not necessary to give effect, as between the parties, to their deed of sale. (GALANZA *v.* NUESA, G. R. No. L-6628, August 31, 1954.)

Registration Under Sec. 57, Land Registration Act, Requires A Deed Of Conveyance In Proper Form.

FACTS: Upon the death of the deceased, plaintiff's predecessor in interest, Domingo filed a petition in the cadastral court alleging that said deceased had sold the land to him but had failed to execute the corresponding deed and Domingo asked that the land be registered in his name. The petition was granted. Subsequently, the heirs of the deceased filed an action to annul the order of registration.

HELD: Sec. 57 of the Land Registration Act requires for purposes of registration, a deed of conveyance in proper form. As the grantor in this case died before she could fulfill her promise to execute the proper deed, it is obvious that the grantee's remedy, if he wanted the sale registered and the title transfered to him, was through an action to compel the heirs to fulfill the promise. (CABANGCALA ET AL. *v.* DOMINGO, G. R. No. L-7189, October 30, 1954.)

The Word "Land" In Sec. 99, Act 496, Includes Buildings And, Hence, The Owner Is Liable For Contribution to Assurance Fund.

FACTS: M.T.S. Co. leased a piece of land and built buildings. It then requested the Register of Deeds to annotate the ownership of the improvements in the title of the lessor. The Register refused to do so until the Co. should pay its contribution to the assurance fund. In this petition, M.T.S. Co. claims that since Sec. 99, Act 496, speaks only of land, in reference to the assurance fund, buildings are excluded.

HELD: Land as used in the section includes buildings. This could be gathered from the fact that the same section uses the term Real Estate as synonymous to land, and buildings. The M.T.S. Co., being a beneficiary of the protection afforded by the fund and of the Land Registration System, it is but just that he should contribute to it. (MANILA TRADING AND SUPPLY CO. *v.* REGISTER OF DEEDS, G. R. No. L-5623, January 28, 1954.)

Vendee With Actual or Constructive Knowldge of Mistake in Area of Land Bought is Not Purchaser in Good Faith.

FACTS: Plaintiffs bring this action to recover a parcel of land. The principal allegations of the complaint state: that Lot 400, sold by the Bureau of Lands to Quintero, was inherited by plaintiffs; that the adjoining Lot 3211 was sold, on installment basis, to defendant; that Lot 3211 was relocated and subdivided into Lots 3211-N, 4639; that a portion of Lot 400 belonging to plaintiffs was erroneously included in Lot 4639; that a transfer certificate of title, which included said portion of Lot 400, was issued in favor of defendant. Defendants filed a motion to dismiss alleging that, even if the complaint be true, they should not be blamed for the mistake since they were not accomplices in its commission. The lower court dismissed the case on the ground of lack of cause of action.

HELD: The complaint contains a cause of action. The allegations show that defendants had actual or constructive knowledge of the mistake, never having claimed any right over the portion erroneously included, and said defendants cannot therefore claim to be bona fide purchasers of said portion even if they had paid the consideration therefore. (DE JESUS v. BELARMINO, G. R. No. L-6665, June 30, 1954.)

To Be Deemed A Purchaser In Good Faith, Vendee Must Ascertain Identity And Authority Of Alleged Vendor.

FACTS: Defendant was the registered owner of a parcel of land. Without his knowledge and consent, his daughter obtained the certificate of title to the land and gave it to an impostor who executed a morgage on the property to secure ₱2,000 loaned to the latter by plaintiffs. Plaintiffs believed in good faith that defendant and the impostor were one and the same person. In his action for foreclosure, plaintiffs contend that, though the mortgage is void, they are still entitled to the protection accorded to innocent purchasers for value.

HELD: Where the certificate was already in the name of the forger, the vendee may be considered an innocent purchaser for said vendee has the right to rely on what appears on the certificate and has no obligation to investigate the title of the vendor appearing on said certificate. But where the title was still in the name of the real owner, it is the ven-

dee's duty to ascertain the identity of the man with whom he deals, as well as the latter's authority to convey the property. He who neglects such duty does so at his peril, and cannot be considered a purchaser in good faith. (AURELIO DE LARA v. JACINTO AYROSO, G. R. No. L-6122, May 31, 1954.)

CFI, Acting As Cadastral Court, Has No Power To Order Reconveyance Of Land Erroneously Registered In Another's Name; Remedy Of True Owner Is Action For Reconveyance Or For Damages.

FACTS: In a cadastral case, title to the land in question, belonging to and claimed by Casillan, was by mistake issued to Espartero who never laid claim to the land. Casillan, relying on Sec. 112, Act 496, filed a petition in the cadastral case for the reconveyance of the land to him. The petition was granted; hence, this appeal.

HELD: The CFI, in the exercise of its jurisdiction as a land registration court, has no authority to order a reconveyance in the present case. Sec. 112 authorizes only those alterations which do not impair rights recorded in the decree or those which are consented to by all parties, or those to correct obvious mistakes. The remedy of the landowner whose property has been registered in another's name is, after 1 year from the decree, to bring ordinary action for conveyance or, if the property has passed to an innocent purchaser for value, for damages. (CASILLAN *v.* VDA DE ESPARTERO ET AL., G. R. No. L-6902, September 16, 1954.)

Mortgagee's Lien On Improvements Constructed On Mortgaged Land Vests On Day And Hour Of Registration Of Mortgage.

FACTS: For the construction of a house, Quiambao obtained a loan from the RFC, secured by a mortgage on certain property. The mortgage was registered. A month later, construction of the house began with materials furnished by LLH Co. Later, the RFC foreclosed and bought the property and house at auction. LLH Co. sued Quiambao and RFC for unpaid balance of the value of materials furnished. The court, holding the LLH co's lien preferred over that of RFC because a mortgage lien vests only upon completion of the house while a furnishers lien vests from the moment materials are furnished, rendered judgment against Quiambao and the RFC. RFC appeals.

HELD: The mortgage in favor of the RFC not only enjoyed the presumption of law that a mortgage includes all improvements on the land mortgaged when the obligation falls due, but there was an express stipulation to include all improvements therafter constructed. This lien on all improvements vested on the day and hour the mortgage was registered—1 month before LLH co. began furnishing materials. (LUZON LUMBER & HARDWARE CO. INC. *v.* QUIAMBAO, G. R. No. L-5638, March 30, 1954.)

A Registered Mortgage Whereby The Mortgagor Promised To Sell The Land To The Mortgagee Does Not Bind The Land; The Promise To Sell Is Just A Personal Obligation Of The Mortgagor.

FACTS: Catabona executed 3 mortgages in favor of Respondent on condition that should he (Catabona) decide to sell the land later on, he would sell the same to the mortgagee. The mortgages were duly registered. Subsequently, ½ of the same land was sold by Catabona to Guerrero. In an action in the CFI, Guerrero was declared owner of ½ of the land. However, on appeal the Court of Appeals held that, since the deeds in favor of Yñigo were executed and registered prior to the purchase by Guerrero, Yñigo had the better right.

HELD: The registration of the 3 instruments created a real right in favor of the mortgagee. But the fact that in the instruments the mortgagor undertook, bound and promised to sell the parcel of land to the mortgagees, such undertaking, obligation or promise to sell does not bind the land. It is just a personal obligation of the mortgagor. Hence, the sale to Guerrero was valid. If there be any action accruing to Yñigo, it would be a personal action against Catabona. (GUERRERO *v.* YÑIGO, G. R. No. L-5572, October 26, 1954.)

Registration Does not Validate a Void Mortgage Executed by an Impostor; Sec. 55, Land Registration Law applied.

FACTS: Defendant Jacinto Ayroso was the registered owner of a parcel of land. Without his knowledge and consent, his daughter gave the certificate of title to the land to a man who, representing himself as the defendant, executed a mortgage deed on the property to secure a loan from the plaintiffs. The mortgage was duly registered, and the plaintiffs now seek to foreclose the mortgage.

HELD: A mortgage executed by an impostor without the authority of the owner is a nullity. Its registration under the Land Registration Law lends it no validity because, according to the last proviso of sec. 55 of that law, registration procured by the presentation of a forged deed is null and void. (AURELIA DE LARA *v.* JACINTO AYROSO, G. R. No. L-6122, May 31, 1954.)

Requisite Before Principle of "Comparative Negligence" Can Be Applied.

FACTS: Defendant was the registered owner of a parcel of land. Without his knowledge and consent, the certificate of title thereto was given by his daughter to a man who, pretending to be the defendant, executed a mortgage on the property to secure a loan from the plaintiffs. Plaintiffs believed that the impostor and defendant were one person. Plaintiffs, in their action for foreclosure, invoke the principle of equity that "as between two innocent persons, one of whom must suffer the consequences of a breach of trust, the one who made it possible by his act of confidence must bear the loss."

HELD: Before said principle of equity can be applied, it is essential that the fraud was made possible by the owner's act in entrusting the certificate of title to another. Such circumstance is not present in the case at bar. (AURELIA DE LARA *v.* JACINTO AYROSO, G. R. No. L-6122, May 31, 1954.)

Registration Of Mortgage Does Not Make It Imprescriptible; Sec. 46, Land Registration Act, construed.

FACTS: In 1924, Besana mortgaged a registered piece of land to Bernales to secure a debt payable in 6 years. The mortgage was duly noted on the title. The mortgage credit was then acquired by Buhat. In 1952, Buhat brought suit for foreclosure but the case was dismissed on the ground of prescription, the complaint having been filed more than 10 years after the obligation became due and demandable. Buhat contends that, as the mortgage was registered, the action did not prescribe since Sec. 46, Act. 496, provides that "no title to registered land in derogation to that of the registered owner shall be acquired by prescription."

HELD: Sec. 46 speaks of title of the "registered owner" and refers to prescription as a mode of acquiring ownership, the reason of the law being to make Torrens title indefeasible and surely not to cause a registered lien—and the right of action to enforce it—imprescriptible against the registered owner. (BUHAT ET AL., *v.* BESANA ET AL., G. R. No. L-6746, August 31, 1954.)

PUBLIC LAND LAW

Right To Title To Public Land Acquired Only Upon Application; Possession And Cultivation Insufficient.

FACTS: Elias cultivated and occupied the land in question during his first marriage but it was only during his second marriage that he applied for a free patent therefor, which was later granted. His heirs of the first marriage brought suit against the heirs under the second marriage, claiming that the right to the land was acquired during the first marriage through the deceased's possession and cultivation of the same and that the patent granted merely confirmed said right.

HELD: Occupation and cultivation of the land merely gave Elias the right to apply for a free patent, but for that right to ripen into a free patent title, it was necessary, among other things, that an application be filed. Hence, if the deceased had never filed his application, he could have acquired no right of ownership which he could transmit to his heirs of the first marriage. (NAVAL *v.* JONSAY, G. R. No. L-7199, September 30, 1954.)

Mere Occupation and Planting Does Not Convert Public Land into Private Land.

FACTS: The land in litigation forms part of a homestead application of Vergara, approved in 1931. In 1941, Vergara sold the land applied for to defendant. On August, 1948, Vergara assigned his rights thereto to defendant, who, thereupon, filed his own application to the land. On November, 1948, in an action against Vergara, a compromise agreement was entered into whereby Vergara recognized one Arnido's title to the property. Judgment was rendered on the compromise. Arnido brings this action against defendant to recover title to and possession of the land. The lower court, deciding against defendant, maintained that, at the time of defendant's purchase, the land, having been improved, was already private land.

HELD: The mere occupation of public land and the planting thereon of improvements do not convert it into a private land, and it may, therefore, be acquired only in accordance with the Public Land Act. (ARNIDO v. FRANSICO, G. R. No. L-6764, June 30, 1954.)

Pari Delicto Doctrine Not Applicable To Sales Prohibited By Sec. 118, Public Land Act.

FACTS: Acierto was granted a homestead patent to a piece of land, which was duly registered. Subsequently, Acierto sold the land to Santos, before the expiration of the 5-years period provided by Sec. 118. In this action for recovery by the heirs of Acierto, Santos claims that the provisions of Sec. 118 cannot be invoked by the heirs since their predecessor in interest was in pari delicto.

HELD: The pari delicto doctrine may not be invoked in cases of this kind since it would run counter to a fundamental policy of the state that the forfeiture of the homestead is a matter between the state and the grantee or his heirs, and that until the state has taken steps to annul the grant, the purchaser is, as against the vendor or his heirs, no more entitled to keep the land than any intruder. (ACIERTO *v.* DE LOS SANTOS, G. R. No. L-5828, September 29, 1954.)

The Term "Applicant" In Sec. 119, C.A. 141, Means A Holder Of A Patent.

FACTS: Antero was granted a homestead patent and, upon his death, said homestead was inherited by Priscilla. Priscilla later sold the homestead to Segovia. Subsequently, Priscilla brought action against Segovia for the repurchase of the homestead under Sec. 119. Segovia claims that, as Priscilla's predecessor in interest had been granted a patent and since Sec. 119 expressly grants the right of repurchase only to an *applicant* or his heirs and not to a patentee, Priscilla was not entitled to the right granted by said section.

HELD: Although Sec. 119 provides that "the conveyance of land acquired under the free patent or homestead provisions, shall be subject to repurchase by the *applicant*, his widow or legal heirs," still the interpretation of Segovia cannot be sustained. To follow his interpretation would make said Sec. a dead letter as it would have no application at all. Under the preceding section (Sec. 118), no conveyance can be made from the date of 5 years from the date of issuance of the patent. Hence a mere applicant, without patent, may not sell the land; consequently, there would be no occasion for him to exercise the right of repurchase granted by Sec. 119. (SEGOVIA *v.* GARCIA ET AL., G. R. No. L-5984, January 28, 1954.)

Sale Of Homestead Con Pacto De Retro Within A Certain Period From Execution Of The Deed Is Binding On Vendor; Title Absolute Upon Expiration Of Stipulated Period.

FACTS: In 1940, Galanza sold his homestead to Nuesa with right of repurchase within 5 years from the date of execution of the deed of sale. The Transfer Certificate of Title, however, was not issued until 1947. In 1951, Galanza brought suit for the reconveyance of the land, claiming that, though his right to repurchase under the deed of sale had already expired, he was still entitled to repurchase the land under Sec. 119 of C. A. 141.

HELD: Nuesa's title has already become absolute because of Galanza's failure to redeem the land within the stipulated period. Sec. 119, C. A. 141 does not prohibit the owner from binding himself to an agreement whereby his right of repur-

chase is for a certain period starting from the date of the deed of sale. (GALANZA *v.* NUESA, G. R. No. L-6628, August 31, 1954.)

In Case Of Successive Transfer Of The Land, The Right Of Redemption Of The Heirs Under Sec. 119, *C. A.* 141, *Must Be Exercised Within And Prescribes After* 5 *Years From The Last Transfer.*

FACTS: Pedro Flores acquired a homestead patent in 1937. In 1944, he sold the homestead to Plasina who in turn sold it to Pabello in the same year. Pedro Flores and his wife died in 1947 leaving no heir except Francisco. Francisco, however, was convicted of homicide in the same year and after serving part of his sentence was paroled in 1950. In 1951, Franscisco brought this action to recover the property by the way of redemption under Sec. 119, C. A. 141.

HELD: The right of redemption relied on has already prescribed, it appearing that more than 5 years have elapsed since the last transfer to Pabello and that no offer to repurchase had been tendered by Francisco prior to the action. The fact of Francisco's confinement did not suspend the running of the prescriptive period for it is obvious that he can offer to repurchase or make a deposit of the redemption money to preserve his right even if he is imprisoned. He did not have to do it personally. (FLORES *v.* PLASINA, G. R. No. L-5727, February 12, 1954.)

Authority Of Corporation To Purchase Homestead Under Sec. 121, C. A. 141, *Is Subject To 5-Years Prohibitive Period In Sec. 118; Approval By Secretary Does Not Validate Purchase Made Within Said Period.*

FACTS: Sarabillo obtained a homestead patent over a piece of land. Two years later he sold the land to the Roman Catholic Church to be dedicated solely for educational and charitable purposes. The sale was approvd by the Secretary of Agriculture. Upon Sarabillo's death, the administratrix of the estate brought suit to annul the sale on the ground that it was made before the 5-year period provided in Sec. 118, C.A. 141, had elapsed and was therefore void. The lower court having declared the sale void, the Church appeals.

HELD: The approval of the Secretary does not have any valid curative effect upon the sale of a homestead made before the expiration of the 5-years period from the issuance of the patent, for it is just a formality, the absence of which will not render the transaction null and void. The authority granted to corporations, associations or partnerships in the acquisition of any land granted as homestead with the approval of the Secretary to be used solely for commercial, industrial, educational, religious or charitable purposes is subject to the 5-years prohibitive period in Sec. 118. (DE LOS SANTOS *v.* ROMAN CATHOLIC CHURCH, G. R. No. L-6088, February 25, 1954.)

Bona Fide Occupant Is "One Who Supposes A Good Title And Knows Of No Adverse Claim."

FACTS: The Govt. purchased an estate for resale to "*bona fide* occupants or tenants," under C. A. 539. Respondent, owner of a house standing in one of the lots and lawful tenant thereon since 1912, applied for purchase of said lot. The application was opposed by petitioners claiming that they were the actual possessors of the lot, and consequently were the *bona-fide* occupants to which the law referred. Respondents reply that while it was true that petitioners had been in possession since 1918, yet it was only because of respondent's permission.

HELD: Petitioners do not come under the description of "*bona-fide* occupants" employed in the statute. A *bona-fide* occupant is "one who supposes he has a good title and knows of no adverse claim." The essence of a *bona-fides* lies in one's honest belief in the validity of his right and ignorance of any superior claim and absence of intention to overreach another. (BERNARDO *et al. v.* BERNARDO *et al.*, G. R. No. L-5872, November 29, 1954.)

LEGAL ETHICS

A Notary Has The Duty To Avoid Being Involved in Immoral Arrangements.

FACTS: De Leon, legally married to Marquez, prepared an affidavit wherein it was made to appear that he was permitted to take in another woman, one Balinon, whom he would respect as his true and lawful wife. De Leon subscribed said affidavit before Velayo, a notary public. In his answer to the complaint filed against him by the Sol.-Gen., Velayo claims that as a notary's duty is limited to ascertaining the identity of the affiant and the voluntariness of the declaration, he could not be held guilty of any violation of duty.

HELD: While the duty of a notary public is principally to ascertain the identity of the affiant and the voluntariness of the declaration, it is nevertheless incumbent upon him at least to guard against having anything to do with an illegal or immoral arrangement. (BALINON *v.* DE LEON, ADM. CASE No. 104, January 28, 1954.)

POLITICAL LAW

CONSTITUTIONAL LAW

Rule Forbiding Delegation of Legislative Powers not absolute; Exceptions.

FACTS: Petition for review of a decision of the Auditor General denying petitioner's claim for refund. Pursuant to C. A. 728 making unlawful the exportation of certain articles without a permit from the President and empowering the President to "regulate... and *prohibit* the exportation of materials abroad and *to issue rules and regulations*... through such department... as he may designate," the President issued an order prohibiting the exportation of scrap metals without a license being first obtained. Subsequently, the Cabinet approved a resolution fixing a schedule of royalty rates to be charged on metal exports. Petitioner paid ₱54,862.84 as royalty on its metal exports. Petitioner contends that the resolution fixing the schedule was undue delegation of legislative power because it creates an *ad valorem* tax.

HELD: The rule forbidding delegation of legislative power is not absolute. It admits of exceptions as when the constitution authorizes such delegation. In the present case, the Constitution empowers congress to authorize the President to fix tarrif rates. (Art. VI, sec. 22 [2]). Royalty rates take the form of tariff rates. (DONNELLY *v.* AGREGADO, G. R. No. L-4510, May 31, 1954.)

Reasonable Value Of Property Is Determined By Coeval Sales; Sales Made To Govt. To Avoid Legal Proceedings Are Not Coeval.

FACTS: During the war, the Japanese converted the land in question into an airfield. In 1946, after the war, the US army