A T E N E O
LAW JOURNAL

Published five times during the academic year by Ateneo Law Students

THE APPLICABILITY OF THE AGRICULTURAL TENANCY ACT TO TENANCY RELATIONS IN PUBLIC AGRICULTURAL LANDS

*Ricardo G. Nepomuceno, Jr.**

EARLY last 1954, the Court of Industrial Relations decided the case of *Angat v. Maligaya Rice Experimental Station*.[1] The case arose out of a dispute from the tenant-petitioners by the landlord respondent. The land involved was originally public land withdrawn from sale and settlement by the Governor-General and reserved, under the administration of the Bureau of Plant Industry, for rice experiment station purposes.[2] The proceedings were for reliquidation of all previous harvests and for the reimbursement by the respondent of whatever may be found due to the petitioners in accordance with the tenancy laws then in effect. The court dismissed the case on the ground of lack of jurisdiction.[3]

Although it is to be noted that the lands involved no longer formed part of the public domain, having been withdrawn therefrom, the *Angat* case brings into focus the legal question, that is now confronting different Governmental agencies,[4] regarding the applicability of tenancy laws to public lands falling under the provisions of the Public Land Act.[5]

Partly because of the inherent inapplicability of previous tenancy laws to tenancy relations in which the Government is a party,[6] and partly because of the absence of an occasion for an authoritative pronouncement in

* A.B., Ateneo de Manila, 1953; LL.B., 1956.

[1] Case No. 5042-R, May 17, 1954.

[2] EXEC. PROCLAM'N No. 432 (1931).

[3] The court, relying on the respondent's being an office under the Department of Agriculture and Natural Resources, invoked the State's immunity from suit as the basis for the dismissal.

[4] A case now pending for opinion by the Agricultural Tenancy Commission involves the ejectment of tenants in lands belonging to the Mindanao Institute of Technology. The Institute was created by R. A. No. 763 for the purpose of offering elementary, secondary, vocational and normal courses of instruction and collegiate agricultural and industrial courses. The land involved is public land which the institute is empowered to mortgage, lease, pledge and encumber.

[5] C. A. No. 141, as amended.

[6] Act No. 4054, as amended by R. A. No. 34, known as the Philippine Rice Share Tenancy Act, applied only when tenancy relations were entered into in consideration of a share in the net produce. The same is true of Act No. 4113, as Amended by C.A. No. 271, which applied to sugar lands. Under the Public Land Act, the only method of disposal, short of alienation, allowed the Government is by lease in consideration of a definite sum of money. PUBLIC LAND ACT §§ 35 & 36. It seems then that the only possible kind of tenancy in public agricultural lands, in which the Government could be a party, is leasehold tenancy where the consideration is money instead of a share in the produce. See text p. 42, *infra*.

those cases where they could have been applied,[7] the question has so far remained unanswered. The problem has, however, been recently placed in bold relief by the passage of the Agricultural Tenancy Act[8] last August 31, 1954.

I. Possible Tenancy Relations

A study of the provisions of this new law and of the provisions of the Public Land Act on lease[9] show that there may exist in public agricultural lands, which have been leased by the Government, tenancy relations as the term is understood in the Tenancy Act.

The first of these possible tenancy relations is that of leasehold tenancy, an innovation of the new law. Under the provisions of the Agricultural Tenancy Act, leasehold tenancy exists where there are the following[10]—

(1) A piece of agricultural land susceptible of cultivation by a single person or by a person with the aid his immediate farm household;[11]

(2) A person, natural or juridical, called the landholder-lessor, who, as owner or legal possessor of said land, leases the same to another;

(3) A person, called the tenant-lessee, who undertakes to cultivate said land personally,[12] or with the aid of his immediate farm household; and,

(4) An agreement by the tenant lessee to pay to the landholder-lessor, as consideration of the lease, a price certain or ascertainable either in an amount of money or produce.

The Government, a juridical person,[13] owns public agricultural land. Under the Public Land Act, and in a manner most consistent with its purposes,[14] it may undoubtedly lease public agricultural lands to an individual citizen who wishes to cultivate it personally,[15] in an area susceptible of cultivation by himself personally or with the aid of his immediate farm household,[16] and for an amount certain in money.[17]

In this kind of tenancy relations, one party is the Government, as landholder-lessor, and the other party, a private individual as tenant-lessee.

There may, however, also exist another kind of tenancy relations in public agricultural lands, in which the Government does not participate, at least directly. According to the Agricultural Tenancy Act, there is share tenancy where the following elements concur[18]—

(1) The subject matter which is agricultural land of an area susceptible of cultivation by a person alone or with the help of his immediate farm household;

(2) A natural or juridical person, called the landholder, who, as owner or legal possessor of said land, grants the cultivation of the same to another;

(3) A person, called the tenant, who undertakes to cultivate said land personally, or with the aid of his immediate farm household;

(4) A contribution of either party or both of any or several of the items of production; and,

(5) An agreement by the parties to divide the produce of the land in proportion to their respective contributions.

Admittedly, the Government is not permitted under the Public Land Act to enter into a share tenancy contract of the nature contemplated by the Tenancy Act.[19] But there may be share tenancy relations between the lessee of the Government and third persons. The absence of restrictive provisions in the Public Land Act regulating the management of the property by the lessee point to the wide field of freedom given to the latter in the determination of the produce to which the land is to be planted and of the practicability of contracting the services of others to aid in the cultivation of the premises, in the latter case subject only to the limitation imposed by Section 40 of the law.[20]

In the exercise of this managerial discretion allowed by law, the lessee could very well enter into the share tenancy contract previously mentioned.[21]

---

[7] Even under previous laws, there could have been at least share tenancy relations in public agricultural lands between the leasee and third persons. The observations made regarding the possible existence of share tenancy under the Agricultural Tenancy Act in the text, p. 42, *infra*, is applicable to Acts No. 4054 and 4113.

[8] R. A. 1199.

[9] Public Land Act §§ 33-43.

[10] The elements given are taken from §§ 3, 4, 5 and 42 of the Agricultural Tenancy Act.

[11] Under § 5 (o) of the Agricultural Tenancy Act, immediate farm household includes the members of the family of the tenant, and such other persons, whether related to the tenant or not, who are dependent upon him for support and who usually help him work the farm.

[12] In Rural Progress Adm'n (Now Dir. of Lands) v. Dimson, G. R. No. L-6068, April 28, 1955, personal cultivation was considered an element essential to the existence of tenancy relations.

[13] Art. 44 New Civil Code.

[14] "The purpose and policy of public land laws have always been to invite and encourage the settlement and improvement of public lands," 43 Am. Jur., *Public Lands*, § 2, at 784.

[15] The Public Land Act is silent on the necessity of personal cultivation by the lessee. Sec. 33 of the law requires only that the prospective lessee be a citizen, of lawful age, and that agriculture be his main occupation or at least it should be necessary therefor.

[16] The law merely fixes the limit at 1,024 ha. § 33. Unquestionably, a lease of a lesser are is allowed. In fact, the present policy of the Bureau of Lands is to limit leases to an area of 50 ha. for an individual lessee. See B.L. Form No. 28-298.

[17] Public Land Act § 35.

[18] The various elements are taken from §§ 3-5.

[19] Sec. 11 of the law expressly limits the Government's power of disposal to the modes enumerated therein, *viz.*, (1) for homestead settlement, (2) by sale, (3) by lease, and (4) by confirmation of imperfect or incomplete titles.

[20] Insofar as the management by the lessee is concerned, the only provision which can be said to limit the same to some extent is § 40 which establishes, as an inherent and essential condition of the lease, the cultivation of not less than 1/3 of the land within 5 years after the approval of the lease.

[21] Sec. 40 prohibits the lessee from assigning, encumbering or subletting his

II. The Applicabity of the Tenancy Act

This brings us to the problem: Does the Agricultural Tenancy Act govern tenancy relations in public agricultural lands leased by the Government pursuant to the Public Land Act?

Our courts have not had the opportunity of answering the question squarely. The bulk of the decisions of the Supreme Court has dealt with the application of tenancy laws to tenancy relations between private individuals in lands which the New Civil Code[22] describes as properties belonging to private persons.[23]

However, in recent years, the Supreme Court has had occasion in two cases to apply tenancy laws to lands of an entirely different character. In *Deato v. Rural Progress Administration,*[24] the property involved was a landed estate purchased by the Administration, as an agency of the Government,[25] from its private owners, the Compañia General de Tabacos de Filipinas. The dispute was an offshoot of the denial by the occupants of the estate of their character as tenants and of their consequent obligation to give to the Administration a share of the produce of the land. The Court applied the provisions of the Philippine Rice Share Tenancy Act in deciding that there existed tenancy relations between the parties in the land in question and relied on Section 8 of the said law in upholding the share in the harvest demanded by the Administration.

In the more recent case of *Rural Progress Administration (now Dir. of Lands)*[26] *v. Dimson,*[27] the land involved was the Dinalupihan Estate in Bataan purchased by the Administration in 1947. Dimson was a lessee of the Administration. The action was in the nature of ejectment proceedings, filed after the expiration of the term of the lease. The defense of Dimson was that he was a tenant, and therefore could not be ejected from the premises except for any of the just causes enumerated in tenancy laws. The Court relied on Section 19 of the Philippine Rice Share Tenancy Act and section 5 (a) of the Agricultural Tenancy Act in deciding that there was no tenancy relations between the lessee and the lessor.

The two cases differ from other tenancy disputes in that both involved lands acquired by the Government by purchase, and which are of the nature of patrimonial properties of the state under the New Civil Code.[28] The decisions of the Supreme Court seem to indicate, then, that not only private properties of private individuals but also private or patrimonial properties of the state are subject to the provisions of tenancy laws, a fact in consonance with the principle that the state has, with respect to its private properties, the same duties and obligations as ordinary private persons.[29]

It may then be that the applicability of tenancy laws to public lands covered by the Public Land Act could be brought under the *Deato* and *Dimson* cases. But are public lands patrimonial in character?

Philippine jurisprudence on the point is not definite, a condition that may be attributed to the peculiar legal situation in which history has placed the Islands. The existence of two laws (the New Civil Code and the Public Land Act) on state properties, proceeding from entirely different sources and each embodying not altogether identical concepts of state lands, has complicated matters.

The Court has not had the chance to decide the question one way or the other, since all the controversies, affecting the lands governed by the Public Land Act, which have so far been brought to its attention, merely involved the question of whether a particular parcel of land fell within the provisions of the Public Land Act or not, rather than of whether lands admittedly public are patrimonial in character or otherwise. The absence of an authoritative pronouncement by the Court has left the field open to commentators.

But even contemporary commentators fail to agree on the answer. Messrs. Sinco,[30] Capistrano,[31] and Garcia & Alba[32] seem to classify lands governed by the Public Land Act as properties of public dominion under article

---

rights without the consent of the Secretary of Agriculture and Natural Resources In this discussion we prescind from the question of whether share tenancy is a lease contract (in which case it would be subject to § 40), an innominate contract, or a partnership. See Montemayor, *Jurisdiction Over the Ejectment of Tenants of Rice Lands,* 1 Ateneo L. J. 127-50 (1951) for a fuller discussion of the legal nature of share tenancy. Even if it be considered a contract of lease, the lessee may still sublet the land with the consent of the Secretary of Agriculture and Natural Resources.

[22] Art. 425 New Civil Code.

[23] *E.g.* Iburan v. Labes, G.R. No. L-2671, Aug. 30, 1950; Vda. de Ongsiaco. v. Gamboa, G.R. No. L-1867, April 8, 1950; Infante v. Javier, 47 O.G. 1167 (1949); Buter v. CIR. 46 O.G. 5512 (1949); Sibulo v. Altar, 46 O.G. 5502 (1949); Gallego v. Kapisanan Timbulan ng Mga Manggagawa, 46 O.G. 4248 (1949); Alcantara v. Santiago, G.R. No. L-2178, May 30, 1949; Ojo v. Jacinto, 46 O.G. (11s) 216 (1949); Camacho v. CIR, 45 O.G. 4867 (1948); Tapang v. CIR, 72 Phil. 79 (1941).

[24] G.R. No. L-2414, April 13, 1951.

[25] The Rural Progress Adm'n was created by Exec. Order No. 191 (1939), promulgated by the President under authority of C.A. No. 378.

[26] The Rural Progress Adm'n was abolished in 1950 and all its powers, duties, functions, actions, and obligations were transferred to the Landed Estates Division of the Bureau of Lands, Exec. Order No. 376 § 4 (1950). The abolition and transfer took place during the pendency of the *Dimson* case; consequently, the Dir. of Lands was substituted as party-plaintiff.

[27] G.R. No. L-6068, April 28, 1955.

[28] *See* Pindangan Agricultural Co. v. Schenkel, 46 O.G. 5518, 5520, (1949) (by implication). The juridical character of properties purchased by the Government in a voluntary transaction, as patrimonial, is similar to that of properties acquired in execution sales, in tax sales, and by succession as an intestate heir to person who die without any other legal heir. 1 Tolentino, Commentaries and Jurisprudence on the Civil Code 193 (1947).

[29] See p. 46, *infra.*

[30] Sinco, Civil Code of the Philippine Annotated 154 (1950).

[31] 1 Capistrano, Civil Code of the Philippines With Comments and Annotations 352 (1950).

[32] Garcia & Alba, Civil Code of the Philippines, Commentaries and Jurisprudence 672 (1950).

420 of the New Civil Code. On the other hand, Messrs. Tolentino,[33] Padilla[34] and Castrillo[35] are of the opinion that the lands in question are properly considered as private or patrimonial properties of the state falling under article 421 of the code. The last opinion seems to be the better view and the conclusion more properly drawn from a consideration of the nature and inherent attributes of the two classes of state properties, *viz*, of public dominion and of private ownership, to which the New Civil Code limits itself.

Properties of public dominion, according to the code, are those (1) intended for public use, and (2) those intended for public service or for the development of the national wealth.[36]

Spanish civil law commentators are agreed that the essential and distinguishing characteristic of both kinds of these properties of public dominion is that they are outside the commerce of man. From this basic principle flow the various attributes, of properties *de dominio publico*, which treatise writers recognize. Thus, it is considered an indubitable proposition that these properties cannot be appropriated by private individuals: being "attached to a common and public service.... prevents them.... from being the object of true appropriation by the State or by private persons [our translation].' "[37] In line with this view, the Supreme Court has consistently considered properties of public dominion as essentially inalienable.[38] In other instances, the Court has held that they may not even be leased.[39] Nor may they be acquired through acquisitive prescription while they retain their public character.[40]

As Mr. Castan succinctly observes—

> No regula nuestro Codigo Civil la situation juridica del dominio publico. Se suele señalar como caracteres distintivos de los bienes que lo constituyen, al ser inalienables e imprescriptibles, al menos—dentro de nuestro Derecho, y como dice De Buen—mientras esten asignados a la finalidad publica y en la medida en que esta finalidad publica lo exija.[41]

Mr. Valverde notes further that it is only if and when they cease to be of public dominion that such properties become alienable and within the commerce of men.[42]

On the other hand, patrimonial properties, as negatively described by the code, are those which are not properties of public dominion,[43] and those, which, though originally of public dominion, have ceased to be such,[44] and have been declared to be patrimonial either by the legislative or executive department[45] or which have been judicially determined to have ceased to be of public use or service.[46]

These properties, Mr. Manresa observes, are owned by the state as a private juridical person[47] and constitute the properties of which it may dispose.

> Lo caracteristico de estos bienes de propriedad privada... esta en que el Estado tiene respecto de ellos como el particular aunque naturalmente con arreglo a la leyes especiales...[48]

This brief exposition points to the patrimonial character of public lands. In American law, public lands are sold to be lands "...such as are subject to sale or other disposal under general laws",[49] and do not include those which are "held back or reserved for any special governmental or public

---

[33] Mr. Tolentino, however, makes a qualification. In his opinion, public lands would be classified as patrimonial as soon as they should be available for alienation or disposition; before such time, they would partake of property of the public dominion, under art. 420 (2), "for the development of the national wealth," just like mines before their concessions have been granted. 1 TOLENTINO, *op. cit. supra* note 28, at 194. The qualification, however, is not necessary because public lands are precisely lands already subject to sale or other disposal under general laws. *See* Central Capiz v. Ramirez, 40 Phil. 883, 898 (1920); Montano v. Insular Gov't., 12 Phil. 572, 574 (1909); Mapa v. Insular Gov't., 10 Phil. 175, 183 (1908) (concurring).

[34] 1 PADILLA, CIVIL LAW 546 (1953 ed). Professor Padilla cites the leading case of Montano v. Gov't., 12 Phil. 572, under art. 420 (2), to emphasize the definition of public lands therein given that public lands are those which have not yet ben appropriated by private individuals nor devoted to public use.

[35] Mr. Castrillo bases his opinion on the deletion of art. 342 of the Spanish Civil Code from the New Civil Code. It is his opinion that public lands would have formed part of the distinct class of properties of royal patrimony under art. 342 of the old code, had said article not been suppressed. CASTRILLO, NATURAL RESOURCES 10 (5th ed. 1954). However, it seems that art. 342 would not govern public lands even if it had been retained; properties of royal patrimony appear to be limited to a handful of properties in Spain, formerly belonging to the Spanish aristocracy and later utilized by the Spanish Republic for scientific and cultural research and advancement. 3 MANRESA, COMMENTARIOUS AL CODIGO CIVIL ESPAÑOL 95 (6th ed. 1934) (hereinafter cited as MANRESA); 1 CASTAN, DERECHO CIVIL ESPAÑOL, COMUN Y FORAL 277 (6th ed. 1943).

[36] Art. 420 NEW CIVIL CODE.

[37] 3 MANRESA 63.

[38] Meneses v. Commonwealth, 69 Phil. 647 (1940). The rule of inalienability extends to properties of public dominion belonging, under art. 424 of the New Civil Code, to other political subdivisions of the Government. Vda. de Tantoco v. Mun. Council, 49 Phil. 52, 55 (1926).

[39] Cavite v. Rojas, 30 Phil. 602 (1915).

[40] Palanca v. Commonwealth, 69 Phil. 449 (1940); Commonwealth v. Palanca, (CA) 39 O.G. 161 (1940); Govt. v. Aldecoa & Co., 19 Phil. 505 (1911); Harty v. Mun. of Victoria, 13 Phil. 152 (1909).

[41] 1 CASTAN, *op. cit. supra* note 35, at 277; see 1 VALVERDE, TRATADO DE DERECHO CIVIL ESPAÑOL 467 (4th ed. 1935) (hereinafter cited as VALVERDE).

[42] 1 VALVERDE 470. Nor may properties of public dominion of the State or any of its political subdivisions be subject to attachment or execution. Tufexis v. Olaguera, 32 Phil. 654 (1915); Vda. de Tantoco V. Mun. Council, 49 Phil. 52 (1926).

[43] Art. 421 NEW CIVIL CODE. See Tipton v. Andueza, 5 Phil. 477, 478-79 (1906).

[44] Art. 422 NEW CIVIL CODE.

[45] Natividad v. Dir. of Lands, (CA) 37 O.G. 2906 (1939); see 3 MANRESA 92.

[46] 3 MANRESA 93; Mun. of Hinunagan v. Dir. of Lands, 24 Phil. 124 (1913); Mun. of Oas v. Roa, 7 Phil. 20 (1906).

[47] 3 MANRESA 87; 1 CASTAN, *op. cit. supra* note 35, at 276.

[48] 3 MANRESA 87; see 1 VALVERDE 470.

[49] Cases cited note 33, *supra*.

The same concept is adopted by the Public Land Act. The Public Land Act, by explicit provisions, governs only such lands which have not been reserved for public use[51] and which have been declared by executive authority as no longer required for public use.[52] It has thus been correctly observed by the Supreme Court that public lands are *per se* disposable.[53] It seems that, from the civil law viewpoint, the lands in question fall squarely within that class of state properties known as patrimonial.[54]

This conclusion is not at all without authority. On the point, the case of *Montano v. Government*,[55] which enjoys the distinction of being the only case in our jurisprudence in which an attempt has been made to fix the proper *situs* of public lands in Philippine law,[56] deserves some attention.

In that case, the majority opinion, in attempting a comparison of Spanish and American law on state properties, arrived at the somewhat novel conclusion that there existed under the former, four distinct classes of state lands, *viz.*, those enumerated in the civil code, crown lands, forest lands, and mineral lands—to which would correspond, respectively, the American classes of Government property, public lands, forest reserve, and mineral lands.[57]

However, at least the decision admits that public lands are not properties of public dominion and that "in the [Spanish and English languages] terms ordinarily equivalent are not... employed in the same sense and that lands *de dominio publico* signify quite a different thing from the arbitrary English phrases 'public lands' or 'public domain.'"[58]

The well thought out concurring opinion in the same case is nearer the core of the matter. Mr. Justice Willard, author of the opinion, after assailing the different points in the majority decision,[59] reached the following conclusion—

> It is more reasonable to say that the Act of Congress of July 1, 1902, [under whose authority Act No. 926, the public land act then in force, was passed] intended to give to the phrase the meaning which was given to it by the laws in force in the territory where the Act was to take effect. And this intention is more apparent when we consider that there then existed article 340[60] of the Civil Code, which contained a complete definition of those lands belonging to the Government, which it had a right to dispose of as private property... The property which the Commission intended to dispose of by Act No. 926 was undoubtedly the private property of the State as defined by article 340.
>
> To say that Congress had a different purpose would be to attribute to it an intention to discriminate against the Philippines and to impose upon the Islands laws other than those in force, a thing which it has never done when legislating in regard to its lands situated in a particulate state.[61]

Certain doubts may however be raised on the propriety of strictly applying civil law standards to public lands when the concept of public lands is admittedly of American origin with its root and special meaning in American jurisprudence.[62] For under American law, public lands are considered to be imprescriptible, a fact which would appear inconsistent with the disposable and prescriptible nature of patrimonial properties. However, imprescriptibility even under American law seems to be only a general rule which admits of certain exceptions.[63] And it is to be noted that all three of the Philippine public land laws, which have so far been enacted, contain a provision recognizing the principle that public lands may be acquired, at least, by ancient or long possession.[64] So that even under the present

---

[50] 50 C.J. § 1, at 886.

[51] PUBLIC LAND ACT § 8.

[52] *Id.* § 7.

[53] *See* Aldecoa v. Govt., 13 Phil. 159, 166 (1909).

[54] The juridical situation of public lands is similar to that of islands formed on seas, lakes, navigable or floatable rivers, within the jurisdiction of the Philippines, which, according to art. 371 of the Spanish Civil Code (art. 464 of the New Civil Code), belong to the State. The same question arises: what character do these islands take? Are they of public dominion or patrimonial. Mr. Manresa offers the view of French and Italian civil law commentators, that since these islands are alienable and prescriptible — characteristics basically opposed to those of lands of public dominion — they cannot be classified as properties of public dominion but must be considered as patrimonial. See 3 MANRESA 256.

[55] 12 Phil. 572 (1909).

[56] The main issue in the case was whether or not the disputed lands, in the nature of mudflats or *manglares*, constituted properties which could be acquired by acquisitive prescription under the Public Land Act then in force, Act No. 926. The resolution of the issue, in the opinion of the majority, necessitated a finding as to the nature of public lands.

[57] *Id.* at 583-84.

[58] *Ibid.*

[59] The principal points attacked by the concurring opinion were (I) the dictum of the majority that in the resolution of all questions affecting public lands American precedents were to prevail over civil law rules, and (2) the statement that the American classification of public lands was in the main identical with the Spanish classification. *Id.* at 586-93.

[60] Now art. 421 NEW CIVIL CODE.

[61] Montano v. Govt., 12 Phil. 572, 592-93 (1909). However, Justice Willard goes further and offers the opinion that the patrimonial properties of the state under the civil code should be considered *part* of the public lands of the state. *Ibid.* This seems to be inaccurate. Patrimonial properties should be considered as the *genus* under which would fall public lands as a *species*, since there are other patrimonial properties which are not public lands, as for example, properties acquired by purchase. See note 28, *supra*.

[62] *See* Mapa v. Govt., 10 Phil. 175, 183 (1908).

[63] 42 AM. JUR., *Public Lands*, § 87, at 862.

[64] The first public land law even provided that public lands could be obtained by prescription for a period of only 10 years possession prior to its effectivity and further that persons who have so held public lands for such period are *conclusively* presumed to have performed all the conditions essential to a Government grant. Act No. 926 § 54 (6). The second public land act substantially retained the same provision but required possession from July 26, 1894. Act No. 2874 § 45 (b). This latter provision was retained *in toto* in the present Public Land Act.

All these provisions, however, explicitly state that prescription cannot run against the Government. Nevertheless, it remains that public lands are subject to prescription in favor of a private individual, at least, against another private person.

law, the Court has admitted that "prescription against the State is expre
ly authorized under the conditions therein described, provided that the la
is agricultural."[65]

If public lands in the Islands may at all be said to be imprescriptible
is because they are made so by the public land laws which have been pass
since the American conquest.[66] Under Spanish sovereignty, these sa
lands, which are now treated as public lands by the Public Land Ac
could be acquired by prescription. As Mr. Justice Holmes of the Unit
States Supreme Court pointed out in the celebrated case of *Cariño v. Go
ernment*[68]—

> ...Spain did not assume to convert all the native inhabitants of the Phil
> pines into trespassers or even tenants at will. For instance, Book 4, title
> Law 14 of the *Recopilacion de las Leyes de Indias*, cited for a contrary conc
> sion in Valenton v. Murciano, 3 Phil. 537,... directs viceroys to confirm th
> who hold by good grants or *justa prescripcion*...
>
> Prescription is mentioned again in the royal cedula of October 14, 1954, ci
> in 3 Phil. 546: "where such possessors shall not be able to produce title dee
> it shall be sufficient if they shall show that ancient possession, as a valid ti
> by prescription." It may be that this means possession from before 1700; b
> at all events, the principle is admitted. As prescription, even against Cro
> lands, was recognized by the laws of Spain we see no sufficient reason
> hesitating to admit that it was recognized in the Philippines in regard to la
> over which Spain had only a paper sovereignty.[69]

The final point to be considered on the question of the application of t
Tenancy Act is the legislative will on the matter. It is admitted that th
seems to be no *direct* indication in the law or its history of the intent
make the Tenancy Act apply. However, it must also be conceded t
tenancy law are directly intended to govern tenancy relations — all tena
cy relations — regardless of where they may exist. And if the Court h
been correct in discovering in tenancy laws the embodiment of a legislati

[65] Agari v. Govt., 42 Phil. 143 (1921).

[66] All the public land laws so far enacted carry a provision to the effe
that no title or right to public lands may be acquired by prescription exce
as expressly provided by laws enacted *after* American occupation. Act No. 9
§ 67; Act No. 2874 § 54; C.A. No. 141 § 57. See Liseng Giap v. Daet, 59 Ph
689, 699 (1934) where the court recognized that because of statutory provisi
prescription runs against the Government.

[67] It is settled that public lands consist of those lands ceded by Spain
the United States, which are neither forestal nor mineral in character. S
Krivenko v. Register of Deeds, 44 O.G. 470, 477 (1947); Ankron v. Govt.,
Phil. 10, 14 (1919); Jocson v. Dir. of Lands, 39 Phil. 560, 565 (1919); Ram
v. Dir. of Lands, 39 Phil. 175, 181 (1918); Santiago v. Govt., 12 Phil. 5
(1909); Montano v. Govt., 12 Phil. 573, 579 (1910); Mapa v. Govt., 10 Ph
175, 182 (1908).

[68] 41 Phil. 935 (1921).

[69] *Id.* at 942. *Contra* Cariño v. Govt., 7 Phil. 153 (1906); Tiglao v. Gov
7 Phil. 80 (1906); Cancino v. Valdez, 6 Phil. 630 (1906). *But see* VENTUR
LAND REGISTRATION AND MORTGAGES 9 (2d ed. 1947).

social policy to protect the tenant,[70] it would be safe to suppose that there may also be found in them a legislative intent to make the laws' protective cloak cover him wherever he may be found, irrespective of the nature of the land or the importance or character of the person who holds title thereto. This intention becomes the more apparent with the enactment of the Agricultural Tenancy Act, the provisions of which have been so broadened as to include all conceivable tenancy relations in all classes of crop lands.[71]

III. CONFLICT OF PROVISIONS

In the actual application of the Tenancy Act to public lands governed by the Public Land Act, several difficulties may be met because of certain conflicting provisions in the two laws. For example, with respect to lease-hold tenancy relations, between the Government as the landholder-lessor and the lessee as tenant, these exist apparent conflicts on two points: (I) on the consideration to be paid by the lessee in case he plants the land to rice,[72] and (2) the ownership, after the termination of the relationship of the parties, of the improvements constructed on the premises by the lessee.

On the first point, the Agricultural Tenancy Act provides that the consideration for the use of ricelands shall not be more than thirty per cent of the gross produce for first class lands nor more than twenty five per cent for second class lands—first class lands being those which yield an average of more than forty cavanes per hectare and second class lands, those yielding forty cavanes or less per hectare.[73] The law further provides that any agreement in violation of the maximum limits is considered void as being contrary to law, morals and public policy.[74] The Public Land Act, nevertheless, fixes the rental of all public lands at not less than three per cent of the value of the land.[75]

On the question of the ownership of the improvements constructed by the lessee, the Agricultural Tenancy Act, partly following the civil code rule

[70] Tenancy laws are inspired by and the policy behind them finds its root in Art. II, § 5 and Art. XIV, § 6 of the Constitution. See cases cited at note 86, *infra*.

[71] The Agricultural Tenancy Act now governs all tenancy relations in all kinds of agricultural lands, regardless of the crop to which they may be planted. *See* Mendoza v. Manguiat, 51 O.G. 137, 138 (1955).

[72] No conflict would arise if the land is planted to sugar or any crop other than rice since the Agricultural Tenancy Act, in such cases, leaves the amount or consideration to agreement between the parties. AGRICULTURAL TENANCY ACT § 46 (c).

[73] *Id.* § 46 (c).

[74] *Id.* § 11 B.

[75] PUBLIC LAND ACT § 37.

on the matter,[76] grants to the tenant-lessee one half of the value of the improvements made by him, which are reasonable and adequate to the purposes of the lease.[77] The Public Land Act, however, provides otherwise. Under the latter, upon the final expiration of the lease, all buildings and other permanent improvements by the lessee become the property of the Government,[78]

Another important conflict in the two laws, which affects not only possible leasehold but also share tenancy relations in public lands is the conflict on the extinguishment of the relationship of the parties and the effects arising from such extinguishment.

Under the Public Land Act, leases of public lands are limited to a period of twenty five years, renewable for a final twenty five years.[79] Upon the expiration of the stipulated period, the relationship of lessor and lessee is extinguished and, as in all other civil leases, the lessee loses his right to continue in possession of the premises and may be ejected therefrom.[80]

The provisions of the Agricultural Act, however, prescribe an entirely different rule. Section 6 of said act provides that, once tenancy relationship is established, the tenant loses the right to possess the land *only and exclusively* in two instances: (1) the termination of the tenancy relationship, or (2) his dispossession for a just cause. The first instance, according to the law, occurs either by reason of the voluntary surrender of the land by the tenant or by reason of the voluntary surrender of the land by the tenant or by reason of his death or incapacity.[81] The Tenancy Act provides further that neither the expiration of the period of the contract as fixed by the parties, nor the sale or alienation of the land extinguishes the relationship.[82] The second instance, on the other hand, occurs upon proof[83] of the existence of any of the exclusive just causes[84] enumerated in Section 50 of the law, none of which refers to the expiration of the contract between the parties.[85]

It will be noted that in neither instance does the Tenancy Act provide for the loss of the tenant's right of possession by reason by the expiration of the period of the contract between landholder and tenant. It would seem then that, judged according to the rules enunciated in the Tenancy Act, the expiration of the period of the lease contract between the Government and the lessee of public lands does not of itself terminate a tenant-lessee's right nor a share tenant's privilege to continue in the possession of the premises,

---

[76] Under the code, the lessee is entitled to 1/2 of the value of all useful improvements, suitable to the use for which the lease is intended, made by him in good faith without altering the form of substance of the property leased. And should the lessor refuse to pay such value, the lessee is further given the right to remove the improvements, even though the principal thing may suffer damage thereby. Art. 1687 NEW CIVIL CODE. The Agricultural Tenancy Act has apparently adopted the first part of the codal article but is silent on the rule to be followed in case the contingency contemplated in the last part of the article should arise.

[77] AGRICULTURAL TENANCY ACT § 42.

[78] PUBLIC LAND ACT § 38.

[79] *Ibid.*

[80] Art. 1637 of the New Civil Code grants the lessor the right to judicially eject the lessee when the period of the lease agreed upon has expired. The same article however also expressly provides that the ejectment of tenants of agricultural lands is governed by special laws.

[81] AGRICULTURAL TENANCY ACT § 9.

[82] *Ibid.* In case the land is alienated by the owner, the same § provides that the purchaser or transferee shall assume the rights and obligations of the former landholder in relation to the tenant.

[83] The previous tenancy law only required the approval of the dispossession by the now defunct Tenancy Law Enforcement Division of the Department of Justice. C.A. No. 461, as amended, R.A. 44 § 1. The tenancy act now requires proof before a court of justice. AGRICULTURAL TENANCY ACT § 49.

[84] The enumeration of causes for dispossession in previous tenancy laws was not exclusive, allowing as it did dispossession not only for the causes enumerated in C.A. No. 461 but also for "any just cause." R.A. 44 § 1. The causes enumerated in § 50 of the present Act are exclusive in character. This is clear from the negative tenor of § 49 — "Notwithstanding any agreement or provision of law as to the period, in all cases where land devoted to any agricultural purpose is held under any system of tenancy, the tenant shall not be dispossessed of his holdings except for any of the causes hereinafter enumerated."

[85] Sec. 50 provides —

Any of the following shall be a sufficient cause for the dispossession of a tenant from his holdings:

(a) The *bona fide* intention of the landholder to cultivate the land himself personally or through the employment of farm machinery and implements...

(b) When the tenant violates or fails to comply with any of the terms and conditions of the contract or any provisions of this Act...

(c) The tenant's failure to pay the agreed rental or to deliver the landholder's share...

(d) When the tenant uses the land for a purpose other than that specified by agreement of the parties.

(e) When a share-tenant fails to follow those proven farm practices which will contribute towards the proper care of the land and increased agricultural production.

(f) When the tenant through negligence permits serious injury to the land which will impair its productive capacity.

(g) Conviction by a competent court of a tenant or any member of his immediate family or farm household of a crime against the landholder or a member of his immediate family.

The first subsection incorporates the decision of the Supreme Court in the case of Buter v. CIR, 46 O.G. 5512 (1949).

nor does it constitute a cause for the ejectment of the tenant.[86]

These and other conflicts which may be discovered in the two laws in evitably compel a choice of the law to apply in a given case. Which la should prevail? Put in another way, what effect does the passage of th Tenancy Act have on the Public Land Act?

The only provision in the former with respect to its effect on other enac ment is the repealing clause which provides that Act No. 4054, as amended and C.A. No. 461, as amended, and all laws, rules and regulations incon sistent therewith are thereby repealed.[87] However, the express repealer i the clause wholly fails to mention th Public Land Act and a repeal canno be predicated exclusively on the general repealer therein — to the effect tha all inconsistent enactments are threby repealed — which is considered unde the canons of statutory construction as nothing more than a "mechanica verbiage."[88]

Nor can a repeal by implication be sustained for although there appea inconsistencies between the two laws, the legislative intent to repeal — which is the dominant factor in the application of the doctrine of implie repeal[89] — is far too remote if not totally absent.

However, the coterminous operation of the two enactments could be main tained, perhaps, in much the same way that general and special laws ar both given effect by considering the general law as a statement of the general legislative mandate and giving effect to the special statute as an exception to the terms of the former.[90] In this light, since tenancy relations do not exist in each and every lease of public lands, the Tenancy Act would govern only those leases of public lands where, for example, the area of the premises can be and is actually cultivated by the lessee personally or with the aid of his immediate farm household or where there should exist share tenancy relations between the lessee and third persons. In other words, the Agricultural Tenancy Act would apply only if and when all the elements of tenancy, as laid down in its provisions, exist in a given lease. In all other leases, the Public Land Act remains in full force as the general controlling statute on public lands. The effect of the Agricultural Tenancy Act then would be merely to except certain lands of the Government from the lease provisions of the Public Land Act in exactly the same way that previous tenancy laws have excepted and the Tenancy Act itself would undoubtedly except certain lands of individual ownership from the general provisions of the civil code on lease.[91]

It could be that, from the practical point of view, several sound objections exist against the application of the Tenancy Act to public lands of the Government. But the fact remains that from the legal standpoint such application can be reasonably upheld and unless it is so sustained, the Government could be accused of imposing obligations, on private landowners, which it does not itself acknowledge and of withholding from its own tenants what it has so freely given to tenants of private individuals.

---

[86] Against the application of the provisions of the Agricultural Tenanc Act on this point may be raised an objection based on Art. XIII § 1 of the Con stitution, in conformity with which § 37 of the Public Land Act was adopte which expressly prohibits a lease of natural resources for a period exceedin fifty years. If the provisions of the Agricultural Tenancy Act were mad applicable, the leasehold or share tenant in public lands would enjoy wha would amount to a lease for an indefinite period which may extend beyond th fifty-year limit imposed by the Public Land Act and the Constitution.

However, the violation becomes more apparent than real when the Consti tutional provision is examined in the light of the object sought to be accom plished by its adoption, and the evils sought to be prevented or remedied there by. The provision was undoubtedly adopted in order to prevent what woul constitute concessions or trust in perpetuity. *Committee Report on Nationaliza tion and Preservation of Lands and Natural Resources* in 2 ARUEGO, THE FRAMIN OF THE PHILIPPINE CONSTITUTION app. H 966, 974 (1937). It seem reasonabl to assume that what was contemplated by the provision were ordinary civi leases and not special contracts partaking *partly* of the nature of leases bu arising from a special kind of relationship. For the different views on th special nature of share tenancy contracts, see 3 CASTAN, *op. cit. supra* note 35 at 275; 3 VALVERDE 550; 10 MANRESA 608-610. Furthermore, it is settled tha tenancy laws and the present Agricultural Tenancy Act have been promulgate in pursuance of the Constitutional mandates of Art. II § 5 and Art. XIV § 6. *See* Pineda v. Pinggul, 49 O.G. 3901 (1953); Ang Tibay v. CIR, G.R 8, 1950. Hence, a contrary solution would produce a conflict, an indirect bu nonetheless a real one, between Art. XIII § 1 on one side and Art. II§ 5 and Ar XIV § 6 on the other, a result which should be avoided. Moreover, a differen view would produce the anomalous situation of a statute, enacted perfectly i accordance with the Constitutional policy and authority embodied in one provi sion, being found violative of another Constitutional provision.

[87] AGRICULTURAL TENANCY ACT § 59.

[88] 1 SUTHERLAND, STATUTORY CONSTRUCTION § 2013, at 467 (3d ed. 1943).

[89] *Id.* § 2012.

[90] 1 *id.* § 2022, at 490; 2 *id.* § 5204, at 542; Lichauco & Co. v. Apostol, 44 Phil. 138 (1923). *See* Benitez v. Paredes, 51 Phil. 1, 9 (1927).

[91] The civil code provides that land tenancy on shares is governed by special laws, art. 1684 NEW CIVIL CODE, recognizing the fact that lands on which there exist tenancy relations are excepted from its provisions on lease.