

Questions on the Expropriation of Untitled Land

*Christopher John P. Lao**

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I. INTRODUCTION

When the government takes private property, including land, for a public purpose, it has to pay just compensation.¹ “The Constitution prescribes just

* ’11 J.D., University of the Philippines College of Law. The Author is a faculty member of the University of the Philippines College of Law and De La Salle University College of Law.

Cite as 66 ATENEO L.J. 211 (2021).

- I. PHIL. CONST. art. III, § 9. (“Private property shall not be taken for public use without just compensation.”).

Eminent domain is the right or power of a sovereign state to appropriate private property to particular uses to promote public welfare. It is an indispensable attribute of sovereignty; a power grounded in the primary duty of government to serve the common need and advance the general welfare. The power of eminent domain is inseparable in sovereignty being essential to the existence of the State and inherent in government.

National Transmission Corporation v. Oroville Development Corporation, G.R. No. 223366, 833 SCRA 575, 589-90 (2017) (citing *Heirs of Alberto Suguitan v. City of Mandaluyong*, G.R. No. 135087, 328 SCRA 137, 144 (2000)).

compensation,” said the late Fr. Joaquin G. Bernas, S.J.,² one of the framers of the 1987 Constitution³ and a legal luminary.

Whether the property is private⁴ or public property is normally not an issue, unless the property is land in general, and untitled land in particular. Proving the private character of untitled land is a difficult task and is expected to be done in a special judicial proceeding which is *in rem*, meaning the resultant decree operates directly on the land and establishes title thereto.⁵ An expropriation proceeding, on the other hand, is a special civil action governed by the rules for ordinary civil actions, subject to the specific rules prescribed for the special civil action for expropriation.⁶ It is an action *quasi in rem*, which deals with the status, ownership, or liability of a particular property.⁷ It is intended to operate on these questions only as between the particular parties to the proceeding, and not to ascertain or cut off the rights or interest of all possible claimants.⁸ The judgment therein is binding only upon the parties who are joined in the action.⁹ So what happens when the government expropriates untitled land? Who is entitled to just compensation, and how is this entitlement established? If the judgment, not being of an action *in rem*, does not bar indifferently all who might be minded to make an objection against the right over the property, what does this mean for the parties to the expropriation suit and those non-parties who have a right to be heard on the

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2. Southern Luzon Drug Corporation v. DSWD, G.R. No. 199669, 824 SCRA 164, 231 (2017) (J. Carpio, dissenting opinion) (citing JOAQUIN G. BERNAS, THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY 379 (1996)).
 3. PHIL. CONST.
 4. “Private” here means property owned by private individuals/entities, since patrimonial property is also private property, albeit owned by the State.
 5. “Judicial proceedings for the registration of lands throughout the Philippines shall be *in rem* and shall be based on the generally accepted principles underlying the Torrens system.” Amending and Codifying the Laws Relative to the Registration of Property and for Other Purposes [Property Registration Decree], Presidential Decree No. 1529, § 2 (1978).
 6. 1997 RULES OF CIVIL PROCEDURE, rule 67.
 7. Ramos v. Philippine Tourism Authority, G.R. No. 52449 (1980) (unreported). See also Office of the Clerk of Court, Clarification on Expropriation Cases, Acquisition of Right-of-Way, Issuance of Writs of Possession, and Entitlement to Interest Pursuant to Republic Act No. 10752, OCA Circular No. 113-2019, at 4 (July 16, 2019).
 8. Yu v. Pacleb, G.R. No. 172172, 580 SCRA 197, 210 (2009) (citing Domagas v. Jensen, G.R. No. 158407, 448 SCRA 663, 673-74 (2005)).
 9. *Id.*

strength of a conflicting interest? This Article explores these questions and the possible crosscurrents to State policies and objectives.

First, a review of land classification is in order. Land in the Philippines may be classified into agricultural, forest or timber, mineral lands, and national parks.¹⁰ Of these, only agricultural lands may be alienated or privately owned.¹¹ Agricultural lands may thus be further classified as public or private, with the latter originating from the former; following the Regalian Doctrine that all natural resources are owned by the State,¹² except for ancestral lands and domains which are deemed never to have been public or state-owned.¹³ Note that patrimonial property — property no longer intended for public use, public service, or the development of national wealth — is withdrawn from public domain and becomes property of private ownership, albeit still owned by the State.¹⁴ Out of the 29.8 million hectares of land comprising the Philippines, 14.12 million hectares are made available for human settlement as alienable and disposable (A&D) lands.¹⁵

Private lands may be titled or untitled, depending on whether they have been brought into the Torrens system of land registration, and in the case of ancestral domains and lands, whether they have been issued Certificates of Ancestral Domain Title (CADT) and Certificates of Ancestral Land Title (CALT), respectively, by the National Commission on Indigenous Peoples (NCIP) for registration with the appropriate Registry of Deeds (ROD), but not under the Torrens system.¹⁶ Titled lands cover 64.8% of the 14.12 million hectares of A&D lands,¹⁷ with over 16.6 million titles stored in the vaults of

10. PHIL. CONST. art. XII, § 3.

11. PHIL. CONST. art. XII, § 3.

12. PHIL. CONST. art. XII, § 2. (“All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State.”).

13. *Cariño v. Insular Government*, 212 U.S. 449, 460 (1909) (In this case, ancestral lands are described as public lands.).

14. *Republic v. Zurbaran Realty and Development Corporation*, G.R. No. 164408, 719 SCRA 601, 614 (2014).

15. Ma. Lourdes Tiquia & TMT, *Pass Land Use Code Now*, MANILA TIMES, Nov. 17, 2020, *available at* <https://www.manilatimes.net/2020/11/17/opinion/columnists/pass-land-use-code-now/797557> (last accessed July 31, 2021) [<https://perma.cc/9XTS-HV6S>].

16. See National Commission on Indigenous Peoples, Revised Omnibus Rules on Delineation and Recognition of Ancestral Domains and Lands of 2012, NCIP Administrative Order No. 4, Series of 2012 [NCIP A.O. No. 4, s. 2012], § 30 (Apr. 13, 2012).

17. *Id.*

159 registries nationwide.¹⁸ This means that there are millions of hectares of land yet to be titled. While an ancestral land may also have been registered under the Torrens system,¹⁹ this Article is limited to private lands originally public in character.

Again, registration does not create title as it is not a mode of acquiring ownership of land, and the certificate of title issued therefor is merely evidence of ownership.²⁰ Therefore, untitled lands are deemed wrested from the State the moment ownership thereof is acquired in any manner provided by law.²¹ The owner only goes to court merely for confirmation of the imperfect or incomplete title, and the issuance of the corresponding certificate of title.²²

II. JUDICIAL CONFIRMATION OF IMPERFECT TITLE VIS-À-VIS EXPROPRIATION PROCEEDING

What happens when untitled land is expropriated? Surely, the absence of a certificate of title does not mean that there is no owner entitled to just compensation, as the property may have been wrested from the State through a manner provided by law. While a certificate of title under the Torrens system is the best proof of ownership of land, it is not a mode of acquiring

18. Land Registration Authority, Surrender of Old Manual Titles for Upgrading to Electronic Title, *available at* <http://www.lra.gov.ph/notice-to-the-public> (last accessed July 31, 2021) [<https://perma.cc/T8CH-WZ4G>].

19. An Act to Recognize, Protect and Promote the Rights of Indigenous Cultural Communities/Indigenous Peoples, Creating a National Commission on Indigenous Peoples, Establishing Implementing Mechanisms, Appropriating Funds Therefor, and for Other Purposes [The Indigenous Peoples' Rights Act of 1997], Republic Act No. 8371, § 12 (1997). Section 12 thereof gives individual members of cultural communities, with respect to their individually-owned ancestral lands, the option to secure title to their ancestral lands under the provisions of Commonwealth Act 141, as amended, or the Land Registration Act 496 (which established the Torrens system of registration), but this option had to be exercised within 20 years from 1997, the approval of The Indigenous Peoples' Rights Act, or until 2017 only. The Indigenous Peoples' Rights Act of 1997, § 12.

20. *Hortizuela v. Tagufa*, G.R. No. 205867, 751 SCRA 371, 382 (2015) (citing *Lorzano v. Tabayag*, G.R. No. 189647, 665 SCRA 38, 56 (2012)).

21. Property Registration Decree, § 14 (4).

22. *Id.* § 29.

ownership.²³ The manner of establishing such title as a concept of ownership, however, is through a special proceeding known as judicial confirmation of imperfect or incomplete titles.²⁴ As a proceeding *in rem*, there is constructive seizure of the land through publication and service of notice, and the goal is to bar all and not make a distinction between known and unknown claimants.²⁵ Personal notice to all claimants is not necessary and the lack thereof will not vitiate or invalidate the decree or title issued.²⁶ The judgment in an expropriation proceeding, on the other hand, does not bar all persons, and the procedure is in stark contrast to that observed in a land registration case.²⁷ As an action *quasi in rem*, an expropriation suit's object is to subject a person's interest in a property to a corresponding lien or obligation.²⁸ Moreover, jurisdiction over the person of the defendant is not a prerequisite to conferring jurisdiction on the court, with having jurisdiction over the *res*

23. *Lee Tek Sheng v. Court of Appeals*, G.R. No. 115402, 292 SCRA 544, 548 (1998) (citing *Halili v. Court of Industrial Relations*, G.R. No. 24864, 257 SCRA 174, 183 (1996)).

24. Property Registration Decree, § 29.

25. *Grey Alba v. De la Cruz*, 17 Phil. 49, 61 (1910) (citing *Tyler v. Judges of Court of Registration*, 179 Mass. 71, 76 (1900)).

26. *Soroñgon v. Makalintal*, 80 Phil. 259, 260-61 (1948) (citing An Act to Provide for the Adjudication and Registration of Titles to Lands in the Philippine Islands [The Land Registration Act], Act No. 496, § 38 (1902)).

27. The following are among the distinguishing steps observed in a land registration case: (1) the Director of the Land Management Bureau (formerly, Director of Lands) is furnished a copy of the application; (2) transmittal from the court of the application for registration and date of initial hearing with all the documents/pieces of evidence to the Land Registration Authority; (3) publication of the notice of the application and the date and place of the hearing in the Official Gazette and in a newspaper of general circulation in the Philippines; (4) service by mailing of notice upon contiguous owners, occupants and those known to have interest in the property; to the Department of Public Works and Highways (DPWH) Secretary and Provincial Governor and Mayor; the Department of Agrarian Reform (DAR) Secretary, the Solicitor General and DENR officials; (5) posting by the sheriff of the notice in a conspicuous place on the land and in the bulletin board of the Local Government Unit's building; and (6) issuance of an order for the issuance of a decree of registration with instructions to the LRA. Property Registration Decree, §§ 23 & 30.

28. *Asiavest Limited v. Court of Appeals*, G.R. No. 128803, 296 SCRA 539, 552 (1998) (citing *Brown v. Brown*, G.R. No. L-17953, 3 SCRA 451, 456 (1961)).

being sufficient.²⁹ Just like in a suit for quieting of title, the judgment therein is binding only upon the parties who are joined in the action.³⁰

Be that as it may, the defendant in an expropriation suit must necessarily discharge the same burden of proof of ownership as that of an applicant for registration of his land. To be entitled to just compensation, one has to prove the private character of the land and that he owns it, which is by no means easy, considering the law granting the substantive right of title to land is both limited and exacting.³¹ Yet, the effects of a judgment in an expropriation suit largely differ from those of a judgment in a registration case.

A. Just the Same, the Defendant Has to Prove the Private Character and Ownership of the Untitled Land in an Expropriation Case

When property is expropriated, “all persons owning or claiming to own, or occupying any part thereof or interest therein” must be joined as defendant.³²

Without any Torrens title, however, who does the government implead as defendants? In the Author’s experience, the plaintiffs usually rely on their subsisting tax declarations. A tax declaration, however, is not a conclusive evidence of ownership and only serves as a sufficient basis for inferring

29. *Alba v. Court of Appeals*, G.R. No. 164041, 465 SCRA 495, 505-06 (2005) (citing *Macahilig v. Heirs of Grace M. Magalit*, G.R. No. 141423, 344 SCRA 838, 851 (2000) & *Gomez v. Court of Appeals*, G.R. No. 127692, 425 SCRA 98, 104 (2004)) (“Jurisdiction over the *res* is acquired either (a) by the seizure of the property under legal process, whereby it is brought into actual custody of the law; or (b) as a result of the institution of legal proceedings, in which the power of the court is recognized and made effective. The service of summons or notice to the defendant is not for the purpose of vesting the court with jurisdiction but merely for satisfying the due process requirements.”).

30. *Evangelista v. Santiago*, G.R. No. 157447, 457 SCRA 744, 775 (2005) (citing Property Registration Decree, § 14 & An Act to Amend Compile the Laws Relative to Lands of the Public Domain [The Public Land Act], Commonwealth Act No. 141, § 48 (1936)).

31. *Heirs of Mario Malabanan v. Republic of the Philippines*, G.R. No. 179987, 587 SCRA 172, 212-13 (2009). As observed by the Supreme Court in this case, judicial confirmation of imperfect title is supposed to be more attractive compared to alternative means of acquisition of lands of the public domain (i.e., administrative titling), but the law on the former has considerable limits. Thus, the Supreme Court commented that Congress should liberalize the standards for judicial confirmation of imperfect title, or amend the Civil Code itself to ease the requisites for the conversion of public dominion property into patrimonial. *Id.*

32. 1997 RULES OF CIVIL PROCEDURE, rule 67, § 1.

possession.³³ Tax declarations³⁴ are a far cry from Torrens titles, which are indefeasible and binding upon the whole world.³⁵ More importantly, the possession of the latter also dispenses with the need to inquire further into the ownership of the property.³⁶ They, too, are a small part of the very big and nuanced puzzle that is Section 14 of Presidential Decree (P.D.) No. 1529 on the modes of owning land. The very unsettled issue of ownership adds another layer of complexity to the expropriation proceeding, that is if the defendant is mindful of the merits of his position and the formidability of the State as adversary in a suit. The State enjoys a myriad of advantages, e.g., it is not estopped from the mistakes of its agents,³⁷ and laches, generally speaking, cannot be appreciated against it because time does not run against the Crown.³⁸

The period within which one may seek to register his land (whether judicial or administrative) had expired last 31 December 2020,³⁹ but

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33. Republic v. Manimtim, G.R. No.169599, 645 SCRA 520, 536 (2011). Possession for purposes of ownership over untitled land cannot be mere fiction. Republic v. Metro Index Realty and Development Corporation, G.R. No.198585, 675 SCRA 439, 448 (2012). “The law speaks of *possession and occupation*[.]” with the word “and” limiting possession to actual possession, following well-entrenched legal hermeneutics. Actual possession of a land consists in the manifestation of acts of dominion over it of such a nature as a party would naturally exercise over his own property. Republic v. Alconaba, G.R. No. 155012, 427 SCRA 611, 619-20 (2004).
 34. A Tax Declaration is a property record and is a traditional assessment document maintained by the provincial, city or municipal assessors, showing, among others the market and assessed values of the property as the basis for the collection of real property tax. See An Act Providing for a Local Government Code of 1991 [LOCAL GOV'T CODE], Republic Act No. 7160, § 202 (1991).
 35. Stilianopoulos v. The Register of Deeds for Legazpi City, G.R. No. 224678, 870 SCRA 215, 236 (2018) (citing Co v. Militar, G.R. No. 149912, 421 SCRA 455, 459-60 (2004)).
 36. *Id.*
 37. Republic v. Aquino, G.R. No. L-33983, 120 SCRA 186, 192-92 (1983) (citing Luciano v. Estrella, G.R. No. L-31622, 34 SCRA 769, 776 (1970)).
 38. United States v. Des Moines Nav. & Ry. Co., 142 U.S. 510, 538 (1892) (citing United States v. Nashville, C. & St. L. Ry. Co., 118 U.S. 120 (1886) & United States v. Insley, 130 U.S. 263, 266 (1889)).
 39. The period within which to seek registration was another limitation under law. Section 47 of the Public Land Act, which provision has been amended several times, the most recent of which being Republic Act No. 9176 in 2002, set 31 December 2020 as the deadline. An Act Extending the Period Until December 31, 2020 for the Filing of Applications for Administrative Legalization (Free Patent) and Judicial Confirmation of Imperfect and Incomplete Titles to Alienable and Disposable Lands of the Public Domain, Amending for this Purpose

expropriation suits are still ongoing, and without the law on the substantive right of title being changed, the defendant operates within the same exacting framework. Under this framework, the defendant has to prove that he or his predecessors-in-interest have been in possession of the land in the concept of an owner since 12 June 1945,⁴⁰ or that he has acquired the property by prescription in relation to the Civil Code.⁴¹ For prescription to run, the property must be both alienable and disposable and patrimonial property of the State, meaning that the property is no longer needed for public use, public service, or for the development of national wealth.⁴² This means that the subject property is already private since public property is not within the commerce of men, and only things within the commerce of men are susceptible of prescription.⁴³

As for private juridical entities, they may own these lands provided they have acquired them from a qualified natural person who has converted the property from public to private by possession in the concept of an owner since 12 June 1945,⁴⁴ or who has acquired a vested right thereto under Republic Act No. 1942 (R.A. No. 1942) through the required possession and occupation for a period of 30 years,⁴⁵ or the property is patrimonial property of the State and the juridical entity has acquired it by prescription,⁴⁶ or said juridical entities have acquired a vested right thereto under the 1935

Commonwealth Act Numbered 141, as Amended, Otherwise Known as the Public Land Act, Republic Act No. 9176, § 1 (2002).

Last 16 July 2021, Republic Act No. 11573, which amends Commonwealth Act No. 141 or the Public Land Act, and Presidential Decree No. 1529 or the Property Registration Decree, was signed into law by the President. It allows for land registration at any time, and liberalizes the requirements therefor. In addition to shortening the period of possession (20 years, instead of possession dating back all the way to 1945), there is no need for the land to be declared patrimonial property of the State. An Act Improving the Confirmation Process for Imperfect Land Titles, Amending for the Purpose Commonwealth Act No. 141, as Amended, Otherwise Known as the “Public Land Act,” and Presidential Decree No. 1529, as Amended, Otherwise Known as the “Property Registration Decree,” Republic Act No. 11573, §§ 2 & 5 (2021).

40. Property Registration Decree, § 14 (1).
41. *Id.* § 14 (4) & An Act to Ordain and Institute the Civil Code of the Philippines [CIVIL CODE], Republic Act No. 386 (1949).
42. *Heirs of Mario Malabanan*, 587 SCRA at 203.
43. CIVIL CODE, art. 1113.
44. *Republic of the Philippines v. T.A.N. Properties, Inc.*, G.R. No. 154953, 555 SCRA 477, 499 (2008).
45. The Public Land Act, § 48 (b).
46. CIVIL CODE, art. 1113.

Constitution which expressly allowed private juridical entities to acquire alienable lands of the public domain.⁴⁷ The prohibition on juridical entities from owning public lands, making them incapable of converting public into private lands, is found in Section 3, Article XII of the 1987 Constitution — “Private corporations or associations may not hold such alienable lands of the public domain except by lease[.]”⁴⁸

1. The Passage of Republic Act No. 11573 Liberalized the Eligibility for Registration of Imperfect Titles a.k.a. Judicial Legalization, Which Affects Entitlement to Just Compensation for Untitled Lands Subject of Expropriation

On 16 July 2021, the President signed into law Republic Act No. 11573 (R.A. No. 11573) or “An Act Improving the Confirmation Process for Imperfect Land Titles, Amending for the Purpose Commonwealth Act No. 141, as Amended, Otherwise Known as ‘The Public Land Act,’ and Presidential Decree No. 1529, as Amended, Otherwise Known as the ‘Property Registration Decree.’”⁴⁹ The law, first made public on 4 August 2021, and was to take effect “[15] days after its publication in the Official Gazette or in a newspaper of general circulation.”⁵⁰ Judicial confirmation of imperfect titles and applications for an agricultural free patent⁵¹ are once again available and without a deadline unlike previous enactments, to the delight of many who wish to secure certificates of title to their land. This is also towards the discharge of the social function⁵² of “recognition and ordering of property

47. PHIL. CONST. art. XII, § 3.

48. PHIL. CONST. art. XII, § 3.

49. Republic Act No. 11573.

50. An Act Improving the Confirmation Process for Imperfect Land Titles, Amending for the Purpose Commonwealth Act No. 141, as Amended, Otherwise Known as the “Public Land Act,” and Presidential Decree No. 1529, as Amended, Otherwise Known as the “Property Registration Decree,” Republic Act No. 11573, § 13 (2021).

51. Changes to the eligibility for administrative free patent include the shortening of the period of continuous occupation and cultivation from at least 30 years to at least 20 years; and the tacking of the period from “himself or through his predecessors-in-interest” to just himself “personally or through a predecessor-in-interest.” So, while it liberalized the period, it tightened the allowance for the tacking of said occupation and cultivation. *Id.* § 2.

52. Property, especially land, “creates conditions for people to live healthy, secure lives, and to do so freely with the potential to have a fully formed identity, with the ability to reflect and deliberate on the direction of one’s life, and finally to do so in the company one wishes.” Colin Crawford, *The Social Function of Property and the Human Capacity to Flourish*, 80 FORDHAM L. REV. 1089, 1127 (2011).

ownership,”⁵³ for which the bundle of legal techniques in this jurisdiction is marshalled. The amendments to judicial confirmation of imperfect title have a bearing on the expropriation of untitled land because as what was previously mentioned, to be entitled to just compensation, the possessor must be the owner thereof and the law prescribes the modes of acquiring imperfect titles thereto.

R.A. No. 11573 liberalized the very exacting requirements under the old law — a move that the Court had hoped to achieve by expressing in its ruling in *Heirs of Malabanan v. Republic*⁵⁴ its discomfiture over the implications of its ruling, although correct, in said case.⁵⁵ The Court lamented that judicial titling was supposed to be easier, but in the end, it became more unattractive compared to administrative titling because of the former’s reference to the Civil Code on acquisitive prescription.⁵⁶ The new law no longer requires that the property is also patrimonial on top of being alienable and disposable, and likewise shortens the reckoning point from 12 June 1945 to at least 20 years immediately preceding the filing of the application.⁵⁷ Note that under acquisitive prescription as a mode of acquiring title to land, it does not begin to run unless the property is both patrimonial and alienable and disposable.⁵⁸ The nature of possession remains the same: open, continuous, exclusive, and notorious possession and occupation (OCENPO) under a *bona fide* claim of ownership.⁵⁹ The limit, consistent with the Constitution, is still 12 hectares.⁶⁰

The law also liberalized the proof required to show that the land is alienable and disposable. In *Republic v. T.A.N. Properties, Inc.*,⁶¹ the Court clarified that in addition to the certification issued by the proper government agency that a parcel of land is alienable and disposable, applicants must also prove that the Department of Environment and Natural Resources (DENR) Secretary had approved the land classification and released the land as alienable

53. Robert S. Summers, *The Technique Element in Law*, 59 CAL L. REV. 733, 734 (1971).

54. *Heirs of Mario Malabanan v. Republic*, G.R. No. 179987, 587 SCRA 172 (2009).

55. *Id.* at 212-13.

56. *Id.*

57. Republic Act No. 11573, §§ 5 & 6.

58. *Zurbaran Realty and Development Corporation*, 719 SCRA at 613.

59. Republic Act No. 11573, § 5.

60. PHIL. CONST. art. XII, § 3. Section 3 states that citizens of the Philippines may “acquire not more than [12] hectares thereof, by purchase, homestead, or grant.” PHIL. CONST. art. XII, § 3.

61. *Republic of the Philippines v. T.A.N. Properties, Inc.*, G.R. No. 154953, 555 SCRA 477 (2008).

and disposable.⁶² The applicant must present a copy of the original classification approved by the DENR Secretary, certified as true copy by the legal custodian of the records, and that the land is within the approved area per verification through survey by the Community Environment and Natural Resources Office (CENRO) or Provincial Environment and Natural Resources Office.⁶³ Although DENR Memorandum No. 564 dated 5 November 2012 authorized the CENRO to issue certifications to show that land is alienable and disposable,⁶⁴ the interpretation of the Court is controlling, and *T.A.N. Properties, Inc.* was even reiterated in subsequent cases.

Today, the proof required is a duly signed certification by a duly designated DENR geodetic engineer that the land is part of alienable and disposable agricultural lands of the public domain.⁶⁵ Said certification shall be imprinted in the approved survey plan submitted by the applicant in the land registration court, and shall contain a sworn statement by the geodetic engineer that the land is within the alienable and disposable lands of the public domain.⁶⁶ It shall also state the applicable Forestry Administrative Order, DENR Administrative Order, Executive Order, Proclamations, and the Local Classification Project Map Number covering the subject land.⁶⁷ Should there be no available copy of the above issuances, it is sufficient that the Land Classification (LC) Number, Map Number, Project Number, and date of release indicated in the land classification map be stated in the sworn statement declaring that said land classification map is existing in the inventory of LC Map records of the National Mapping and Resource Information Authority and is being used by the DENR as a land classification map.⁶⁸

Again, this Article excludes a discussion on agricultural free patents because an agricultural free patent is still a title (in fact, a registration under the Torrens system).⁶⁹ In addition, being a grant from the government, there is no conversion by possession of the applicant of the land from government property into his own private property. Without a grant, there is no imperfect

62. *Id.* at 489.

63. *Id.*

64. Department of Environment and Natural Resources, Memorandum No. 564 [DENR Memo. No. 564] (Nov. 5, 2012).

65. Republic Act No. 11573, § 7.

66. *Id.*

67. *Id.*

68. *Id.*

69. An Act Removing the Restrictions Imposed on the Registration, Acquisition, Encumbrance, Alienation, Transfer and Conveyance of Land Covered by Free Patents Under Sections 118, 119 and 121 of Commonwealth Act No. 141, Otherwise Known as “The Public Land Act,” as Amended [Agricultural Free Patent Reform Act], Republic Act No. 11231, § 3 (2018).

title to confirm. One speaks only of eligibility, and unless the application is approved, the land belongs to the government. Being exactly a grant from the government, there are conditions thereto among which is a right-of-way in favor of the government,⁷⁰ in stark contrast to imperfect titles for judicial confirmation.

2. Does the Reckoning Point of 20 Years Presuppose the Character of the Land as A&D, and What of Acquisitive Prescription as a Mode of Acquiring Title to Public Land?

Two questions come to mind in light of the amendments:

- (1) Is the 20-year period reckoned from the time the land is alienable and disposable, or is it sufficient that at the time of application for land registration, the land is already alienable and disposable?; and
- (2) What about the acquisitive prescription under the Civil Code as a legal ground for registration considering that R.A. No. 11573 removed Section 14 (2) of P.D. No. 1529, which states that “[t]hose who have acquired ownership of private lands by prescription under the provisions of existing laws[?]”⁷¹

Addressing the first question, Section 5 of R.A. No. 11573, which amends Section 48 of Commonwealth Act (C.A.) No. 141,⁷² reads —

(a) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of alienable and disposable agricultural lands of the public domain, for at least [20] years immediately preceding the filing of the application for confirmation of title, except when prevented by war or force majeure. They shall be conclusively presumed to have performed all the

70. This right-of-way shall not exceed 60 meters on width for public highways, railroads, irrigation ditches, aqueducts, telegraphs and telephone lines, airport runways including sites necessary for terminal buildings and other government structures needed for full operation of the airport, as well as areas and sites for government buildings for Resident and/or Project Engineers needed in the prosecution of government-infrastructure projects, and similar works as the Government or any public or quasi-public service or enterprise, including mining or forest concessionaires, may reasonably require for carrying on their business, with damages for the improvements only. The Public Land Act, § 112 (as amended).

71. Property Registration Decree, § 14 (2).

72. An Act to Amend Compile the Laws Relative to Lands of the Public Domain [The Public Land Act], Commonwealth Act No. 141 (1936).

conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this Chapter.⁷³

The question is not novel; only the period is. Whether the reckoning point is 12 June 1945 or earlier, or even later (24 January 1947) on account of R.A. No. 1942, the interpretation is the same. The reckoning points all qualify the antecedent phrase “under a *bona fide* claim of ownership.” *Ad proximum antecedents fiat relation nisi impediatur sententia*, otherwise known as the doctrine of last antecedent, is a familiar rule in statutory construction, which means that qualifying words modify only the words or phrases to which they are immediately associated, and not those remotely located.⁷⁴ Said reading was applied in *Republic v. CA and Naguit*⁷⁵ and aligned conformably with a long line of cases with differing reckoning points.⁷⁶ In addition, it is presumed that Congress had known of the construction of the old phraseology of the prior law when it enacted R.A. No. 11573 and could have easily changed the same if that was its intention.⁷⁷ In *Naguit*, the Court further reasoned that

[i]f the State, at the time the application is made, has not yet deemed it proper to release the property for alienation or disposition, the presumption is that the government is still reserving the right to utilize the property; hence, the need to preserve its ownership in the State irrespective of the length of adverse possession even if in good faith. However, if the property has already been classified as alienable and disposable, as it is in this case, then there is already an intention on the part of the State to abdicate its exclusive prerogative over the property.⁷⁸

Turning to the second question, acquisitive prescription is still a ground because: (1) it is a manner of acquiring title by law (Civil Code) referred to in Sections 5 and 6 of R.A. No. 11573;⁷⁹ (2) acquisitive prescription is a different concept; and (3) whereas OCENPO of at least 20 years requires a “*bona fide* claim of ownership,” extraordinary acquisitive prescription does not need title or good faith.

73. Republic Act No. 11573, § 5.

74. *Philippine Long Distance Telephone Company v. Public Service Commission*, G.R. No. L-26762, 66 SCRA 341, 354 (1975).

75. *Republic v. Court of Appeals and Naguit*, G.R. No. 144057, 448 SCRA 442 (2005).

76. *Id.* at 449–50.

77. *See The United Harbor Pilot’s Association of the Philippines, Inc. v. Association of International Shipping Lines, Inc.*, G.R. No. 133763, 391 SCRA 522, 532 (2002) (citing *Energy Regulatory Board v. Court of Appeals*, G.R. No. 127373, 305 SCRA 327, 337 (1999)).

78. *Naguit*, 448 SCRA at 449.

79. “Those who have acquired ownership of land in any other manner provided for by law.” Republic Act No. 11573, §§ 5 & 6.

For the first ground, C.A. No. 141, as amended, in relation to the Civil Code, is what vests or creates title to a public land.⁸⁰ P.D. No. 1529, as amended, simply “recognizes and documents ownership and provides for the consequences of issuing paper titles.”⁸¹ Otherwise stated, P.D. No. 1529 provides for the procedure to register a title under the Torrens system.⁸²

For the second ground, acquisitive prescription is a different concept. It is the acquisition of ownership and other real rights through the lapse of time in the manner and under conditions laid down by law.⁸³ This lapse of time is its definitive feature. The same creates title⁸⁴ and need not continue to the time of application unlike the OCENPO of 20 years, unless another wrests the title by the same token of acquisitive prescription. Remember that an untitled land vis-à-vis a land registered under the Torrens system is susceptible of acquisitive prescription.

The acquisitive prescription of dominion and other real rights may be ordinary or extraordinary.⁸⁵ Ordinary acquisitive prescription requires possession of things in good faith and with just title for the time fixed by law, which, in the case of ownership and other real rights over immovables, is 10 years.⁸⁶ This possession must be in the concept of an owner, public, peaceful, and uninterrupted.⁸⁷ Good faith consists in the reasonable belief that the predecessor-in-interest was the owner of the property and could transmit ownership thereof,⁸⁸ and is determined in accordance with Articles 526,⁸⁹

80. The Public Land Act, § 14.

81. Republic v. Spouses Go, G.R. No. 197297, 834 SCRA 166, 182 (2017) (citing *Heirs of Mario Malabanan*, 704 SCRA at 628).

82. *Id.*

83. CIVIL CODE, art. 1106.

84. *Id.*

85. *Id.* art. 1117.

86. *Id.* art. 1134.

87. *Id.* art. 1118.

88. *Id.* art. 1127.

89. CIVIL CODE, art. 526.

Article 526. He is deemed a possessor in good faith who is not aware that there exists in his title or mode of acquisition any flaw which invalidates it.

He is deemed a possessor in bad faith who possesses in any case contrary to the foregoing.

Mistakes upon a doubtful or difficult question of law may be the basis of good faith.

Id.

527,⁹⁰ 528,⁹¹ and 529⁹² of the Civil Code. Another requirement for ordinary acquisitive prescription is just title, which means that the adverse claimant came into possession through one of the modes recognized by law for ownership but the grantor, it turns out, was not the owner or could transmit no right.⁹³

Extraordinary acquisitive prescription of immovables, on the other hand, requires uninterrupted adverse possession thereof for 30 years, without need of title or good faith.⁹⁴ For both ordinary and extraordinary acquisitive prescription, the present possessor may complete the period necessary by tacking his possession to that of his grantor or predecessor-in-interest, and enjoys the presumption that the present possessor who was also the possessor at a previous time, has continued to be in possession during the intervening time, unless there is proof to the contrary.⁹⁵

That extraordinary acquisitive prescription allows ownership of immovables without the need of good faith or just title that militates against its assimilation with the OCENPO of 20 years, which requires a *bona fide* claim of ownership. A *bona fide* claim of ownership means possession in the concept of an owner, and the presentation of tax declarations, tax payment receipts, and a deed of sale is “strong evidence of possession in the concept of owner.”⁹⁶ Another argument against assimilation is that acquisitive prescription requires that land is not only alienable and disposable, but also patrimonial or private property of the State, meaning it has been declared to be no longer intended for public use, public service, or preservation of national wealth.⁹⁷ The period for prescription is then reckoned from the time a piece of land assumes such a private character. This is because only private property may be acquired by

90. *Id.* art. 527. “Good faith is always presumed, and upon him who alleges bad faith on the part of a possessor rests the burden of proof.” *Id.*

91. *Id.* art. 528. “Possession acquired in good faith does not lose this character except in the case and from the moment facts exist which show that the possessor is not unaware that he possesses the thing improperly or wrongfully.” *Id.*

92. CIVIL CODE, art. 529. “It is presumed that possession continues to be enjoyed on the same character in which it was acquired, until the contrary is proved.” *Id.*

93. *Id.* art. 1129.

94. *Id.* art. 1137.

95. *Id.* art. 1138.

96. *Kawayan Hills Corporation v. Court of Appeals*, G.R. No. 203090, 879 SCRA 289, 307 (2018) (citing *Republic v. Court of Appeals*, G.R. No. 108926, 258 SCRA 712, 720 (1996)).

97. *Zurbaran Realty and Development Corporation*, 719 SCRA at 613.

prescription.⁹⁸ Property of public dominion is outside the commerce of man.⁹⁹

B. The Judgment in an Expropriation Suit is No Bar to a Land Registration Case

If the land is titled and is not owned by the government, there is no quibbling that the taking thereof must be in accordance with law — it must be for public use and with payment of just compensation. The land must be expropriated if the negotiated sale fails.¹⁰⁰ However, the same cannot be said for untitled

98. CIVIL CODE, art. 1113.

99. *Id.*

100. An Act Facilitating the Acquisition of Right-of-Way Site or Location for National Government Infrastructure Projects [The Right-of-Way Act], Republic Act No. 10752, § 5 (2016). The government may acquire real property needed as right-of-way site or location for any national government infrastructure project through negotiated sale as the preferred mode. Said Act provides —

SECTION 5. *Rules on Negotiated Sale.* — The implementing agency may offer to acquire, through negotiate sale, the right-of-way site or location for a national government infrastructure project, under the following rules.

(a) The implementing agency shall offer to the property owner concerned, as compensation price, the sum of:

- (1) The current market value of the land;
- (2) The replacement cost of structures and improvements therein; and
- (3) The current market value of crops and trees therein.

To determine the appropriate price offer, the implementing agency may engage the services of a government financial institution with adequate experience in property appraisal, or an independent property appraiser accredited by the Bangko Sentral ng Pilipinas (BSP) or a professional association of appraisers recognized by the BSP to be procured by the implementing under the provisions of Republic Act No. 9184, otherwise known as the “Government Procurement Reform Act” and its implementing rules and regulations pertaining to consulting services.

If the property owner does not accept the price offer, the implementing agency shall initiate expropriation proceedings pursuant to Section 6 hereof.

The property owner is given [30] days to decide whether or not to accept the offer as payment for his property. Upon refusal or failure of the property owner to accept such offer or fails and/or refuses to submit the documents necessary for payments, the implementing agency shall immediately initiate expropriation proceedings as provided in Section 6 herein.

lands, which do not clearly appear to be within private ownership, and is presumed to belong to the State.¹⁰¹ Notwithstanding this, the government initiates expropriation of the same, and leaves it to the impleaded parties to prove the private character of the land and their ownership thereof.¹⁰² If the impleaded parties fail, the land need not be expropriated anymore as the same remains the government's, and by extension, no one is entitled to compensation after all. The government is finally able to proceed in undertaking the project. On the other hand, if the private character and ownership of the subject property are proven together with the existence of a lawful right to expropriate, the court shall order the property to be conveyed in favor of the plaintiff and the owner shall be accorded just compensation.¹⁰³

The judgment therein settles the ownership issue but only as far as the parties are concerned.¹⁰⁴ The Author is thus surprised to find this prayer in several expropriation cases of untitled land, which prayer appears more or less in this configuration: To “[*direct*] the Register of Deeds ... to effect the transfer of ownership of the affected area of the subject lot [and improvement] to plaintiff.”¹⁰⁵ An expropriation proceeding, if in order, merely ends in the condemnation of the property subject thereof. This is in contrast to land registration where an imperfect or incomplete title is confirmed resulting in a decree of registration addressed to the Land Registration Authority (LRA) stating that the land described therein is registered in the name of the applicant or oppositor or claimant, as the case may be, and that such a decree be transcribed in the LRA's registration book, an act which constitutes an Original Certificate of Title (OCT).¹⁰⁶

The untitled land in an expropriation suit does not become registered land, which happens only upon said transcription of the decree in the

Id.

101. In Re: Application for Land Registration, *Suprema T. Dumo v. Republic of the Philippines*, G.R. No. 218269, June 6, 2018, available at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64234> (last accessed July 31, 2021).

102. 1997 RULES OF CIVIL PROCEDURE, rule 67, § 3.

103. *Id.* rule 67, § 4.

104. *San Pedro v. Ong*, G.R. No. 177598, 569 SCRA 767, 780 (2008).

105. See e.g., Complaint with Urgent Prayer for the Issuance of a Writ of Possession, Aug. 29, 2017, at 9 (on file with Author), in *Department of Public Works and Highways v. Alfredo R. Cabeza*, Civil Case No. 17-153 (RTC 2017) (unreported).

106. *Manotok Realty, Inc v. CLT Realty Development Corporation*, G.R. No. 123346, 540 SCRA 304, 333 (2007) (citing FRANCISCO VENTURA, LAND TITLES AND DEEDS 168 (1995 ed.)).

registration book by the appropriate Registry of Deeds.¹⁰⁷ Thus, the finding of ownership therein does not quiet title to land and stop forever any question thereon.¹⁰⁸ It is unlike land registration — which is *in rem*, and the decree issued pursuant to the decision therein binds the land and is conclusive upon and against all persons, including the government and all the branches thereof, whether these persons are particularly mentioned or covered by the general inscription “to all whom it may concern.”¹⁰⁹ Although the purchaser of untitled land declared for tax purposes may record the instrument with the appropriate Registry of Deeds,¹¹⁰ the law expressly states that said recording is “without prejudice to a third party with a better right,”¹¹¹ consistent with the principles discussed so far.

The same land subject of an expropriation suit may thus be the object of a registration case by someone not a party to the former. What if this prospers? What does it mean for the parties to the expropriation suit, especially the government?

As to the first question, the registration case is not barred. Suits are barred by *res judicata* or *litis pendentia*, which require identity of parties, subject matter, and causes of action.¹¹² The party now, however, is different from those in the expropriation suit. In addition, the causes of action are different. One is an expropriation suit and the other is a land registration case, the different objectives of which have been thoroughly discussed above. Note that *res*

107. *Id.*

108. *National Grains Authority v. Intermediate Appellate Court*, G.R. No. L-68741, 157 SCRA 380, 389 (1988) (citing *Domingo, et al. v. The Mayon Realty Corp., et al.*, 102 Phil. 32, 36 (1957)).

109. *Francisco v. Rojas*, G.R. No. 167120, 723 SCRA 423, 431 (2014) (citing *Ylarde v. Lichauco*, G.R. No. L-22115, 42 SCRA 641 (1971)).

110. *Property Registration Decree*, § 113.

111. *Id.* § 113 (b).

If, on the face of the instrument, it appears that it is sufficient in law, the Register of Deeds shall forthwith record the instrument in the manner provided herein. In case the Register of Deeds refuses its administration to record, said official shall advise the party in interest in writing of the ground or grounds for his refusal, and the latter may appeal the matter to the Commissioner of Land Registration in accordance with the provisions of Section 117 of this Decree. It shall be understood that any recording made under this section shall be without prejudice to a third party with a better right.

Id.

112. *Heirs of Arania v. Intestate Estate of Sangalang*, G.R. No. 193208, 848 SCRA 474, 498 (2017) (citing *Yap v. Chua*, G.R. No. 186730, 672 SCRA 419, 428-30 (2012)).

judicata is also appreciated in a land registration case¹¹³ when the basis for claiming such registration is the same as the previously denied application or judicial confirmation.¹¹⁴ So unless the basis has changed (e.g., additional years are tacked on to the years of possession and occupation, completing the period required for acquisitive prescription), the refiling is barred by *res judicata* under the first concept of bar by prior judgment.¹¹⁵ If not, the case proceeds subject to the second concept of *res judicata* which is conclusiveness of judgment, which bars relitigating all matters directly adjudged in the first suit.¹¹⁶

Guided by the foregoing principles, what happens if the court issues an order for the issuance of a decree of registration when there seems to be a different standard for entitlement to just compensation? The Office of the Solicitor General (OSG), representing the government, requires merely the submission of tax declarations dating back 30 years. This, however, may not be enough to prove possession as far back as 12 June 1945, much less in the concept of an owner — open, continuous, exclusive, and notorious possession and occupation of the land under a *bona fide* claim of ownership;¹¹⁷ or public, peaceful, and uninterrupted possession in the concept of an owner of a land¹¹⁸ (in the case of prescription as a mode of ownership of untitled land), which is reckoned only from the time the land is not just alienable and disposable but

113. Note the peculiarity of land registration cases in that the judgments therein do not become immutable upon the lapse of the reglementary period within which to appeal but upon the lapse of one year from the issuance of the decree of registration. Before then, a petition may be filed for the reopening and review of the decree of registration. A decree of registration is an order issued under the signature of the Land Registration Authority (LRA) Administrator, in the name of the court, stating that the land described therein is registered in the name of the applicant or oppositor, as the case may be. Property Registration Decree, §§ 31 & 32.

114. *Director of Lands v. Court of Appeals*, G.R. No. L-47847, 106 SCRA 426, 433 (1981).

115. 1997 RULES OF CIVIL PROCEDURE, rule 39, § 47 (b).

116. *Id.* rule 39, § 47 (c).

117. *Heirs of Mario Malabanan*, 587 SCRA at 191-92.

Possession is open when it is patent, visible, apparent, notorious[,] and not clandestine. It is continuous when uninterrupted, unbroken[,] and not intermittent or occasional; exclusive when the adverse possessor can show exclusive dominion over the land and an appropriation of it to his own use and benefit; and notorious when it is so conspicuous that it is generally known and talked of by the public or the people in the neighborhood.

Use of land is adverse when it is open and notorious.

Republic v. Gielczyk, G.R. No. 179990, 708 SCRA 433, 455 (2013).

118. CIVIL CODE, art. 1118.

also patrimonial. Tax declarations are silent as to many of these factual questions, and the Supreme Court has been particular in appreciating them, requiring proof showing the exercise of dominion over every part of the land sought to be registered,¹¹⁹ and well-nigh incontrovertible evidence of possession and occupation.¹²⁰ Well-settled is the rule that tax declarations and receipts are not conclusive evidence of ownership or the right to possess land when not supported by any other evidence.¹²¹

On the second question, the government acquires only the rights to private, untitled land of the defendant. That the spring does not rise higher than the source is a familiar aphorism. If it turns out that someone else has a better right thereto, the same is not prejudiced by the proceeding to which the person was not a party, either constructively or actually.¹²² A contrary view runs roughshod the Constitutional guarantees of due process and entitlement to just compensation. The position of the government is not improved just because Section 13, Rule 67 of the 1997 Rules of Civil Procedure provides that the effect of the recording of an expropriation judgment is “to vest in the plaintiff the title to the real estate so described for such public use or purpose.”¹²³ Said provision is subject to the aforesaid basic notions of fair play, justice, and due process.

Neither may the finding of ownership in an expropriation suit stave off future better rights from ripening. As the land remains untitled, the same remains susceptible of acquisitive prescription.¹²⁴ All this cloud is bad news for the government. If the judgment in the expropriation suit lapses into immutability, the government cannot ask for the return of the just compensation paid to the defendant. It is well-settled that at the risk of occasional errors, disputes must come to an end.¹²⁵ The government will also need to go through the whole gamut of expropriation again for its project.

119. *Kawayan Hills Corporation*, 879 SCRA at 312-13.

120. *Republic v. Remman Enterprises, Inc.* G.R. No. 199310, 171 SCRA 717, 190 (2014).

121. *Kawayan Hills Corporation*, 879 SCRA at 312-13.

122. Much less does the annotation/recording of the involuntary instrument of Order of Expropriation affect the non-party, if not a successor in interest to the recorded instrument affecting unregistered land.

123. 1997 RULES OF CIVIL PROCEDURE, rule 67, § 13.

124. *See* Property Registration Decree, § 47. The rule is well-settled that prescription does not run against registered land.

125. *See De Leon v. Public Estates Authority*, G.R. No. 181970, 626 SCRA 547, 565 (2010).

C. Expropriated, Untitled Land when No Longer Needed for Public Use, Public Service, or Development of National Wealth May be the Subject of Land Registration

What if after expropriation, the government declares the land to be no longer needed for public use, public service, or development of national wealth? The land then would no longer be public but patrimonial or private property of the State and thus within the commerce of men.¹²⁶ Since it is susceptible of prescription, the same can be wrested from the State and the property now becomes subject of a land registration case. The matter of ownership is never conclusive.¹²⁷

III. RECOMMENDATION

The Supreme Court recently released the Guidelines for the Special Expropriation Courts for Public Roads.¹²⁸ It designated Special Expropriation Courts for Public Roads, set deadlines, and introduced a mechanism for the swift resolution of expropriation cases involving national government infrastructure projects.¹²⁹ Expropriation cases shall strictly comply with the 2019 Revised Rules of Civil Procedure where trial shall be terminated within 180 days from the initial presentation of evidence and judgment rendered within 90 days from the submission of the case for resolution.¹³⁰ The same Guidelines states that as far as practicable, all Special Expropriation Courts for Public Roads, as well as other Regional Trial Courts with pending expropriation cases, shall devote at least one day per week to hear expropriation cases.¹³¹

In view of the points raised in this Article, it is recommended that the Guidelines be *not* applied to expropriation of untitled parcels of land. Public interest is not prejudiced thereby since upon making the required provisional deposit¹³² and upon a finding of sufficiency in form and substance of the complaint, the issuance of a writ of possession is ministerial on the part of the

126. CIVIL CODE, art. 1113.

127. Republic v. Samson-Tatad, G.R. No. 187677, 696 SCRA 809, 819 (2013).

128. Office of the Court Administrator, Guidelines for the Special Expropriation Courts for Public Roads, OCA Circular No. 12-2021 (Jan. 19, 2021).

129. *Id.*

130. *Id.* ¶ 5.

131. *Id.* ¶ 3.

132. The deposit is 100% of the value of the land based on the current relevant zonal valuation of the BIR issued not more than three years prior to the filing of the expropriation complaint. The Right-of-Way Act, § 6 (a) (1).

court¹³³ and the government, being entitled to the writ as a matter of right,¹³⁴ may already implement the project. The matter of entitlement to both deposit¹³⁵ and just compensation should be threshed out in a land registration case whenever the subject land is untitled. It is not unheard of, anyway, to suspend proceedings to await the results of another.¹³⁶ This way, the risk of paying the wrong person and circuitry or multiplicity of actions attendant in an inherently flawed proceeding is minimized, if not totally obviated. Since the nature of expropriation is different, appeals by the State are bound to saturate the courts.

Unlike land registration cases, expropriation cases do not notify key players such as the DENR and the LRA.¹³⁷ Neither do they notify possible claimants such as occupants of the land subject of expropriation and its contiguous areas, through publication, posting, and service by mailing.¹³⁸ Expropriation proceedings, as they deal with untitled land, are inefficient and make out tenable appeals cases for the government. The government, it should be remembered, is generally not estopped by the mistakes of its agents.¹³⁹ The DENR is particularly important for the State to guard against alienation of inalienable lands of the public domain.¹⁴⁰ The screening, through the participation of the DENR, should be available at the onset to insulate the Torrens system and to prevent the many benefits derived from it from being upended later on by reversion cases should it be discovered that inalienable lands have found their way to the system. It should be remembered that the proceeding involving inalienable lands of the public domain, whether land registration or expropriation, is null and void for want of jurisdiction.¹⁴¹ As

133. Republic v. Heirs of Fernandez, G.R. No. 175493, 754 SCRA 298, 312 (2015) (citing Capitol Steel Corporation v. PHIVIDEC Industrial Authority, G.R. No. 169453, 510 SCRA 590, 602 (2006)).

134. Municipality of Cordova v. Pathfinder Development Corporation, G.R. No. 205544, 795 SCRA 190, 200 (2016) (citing Metropolitan Cebu Water District (MCWD) v. J. Kings and Sons Company, Inc., G.R. No. 175983, 585 SCRA 484, 488 (2009) (citing *Capitol Steel Corporation*, 510 SCRA at 602)).

135. The clerk of court, as the authorized government depository of the court, receives the deposit and remits the same to the designated depository bank. "Thereafter, it is the court which issues the check, payable to the owner of the property[.]" OCA Circular No. 113-2019, at 1-2.

136. See CIVIL CODE, art. 35.

137. See Property Registration Decree, §§ 15, 17, 19, 23, & 25.

138. *Id.*

139. *Aquino*, 120 SCRA at 192 (citing *Luciano*, 34 SCRA at 776).

140. *T.A.N. Properties, Inc.*, 555 SCRA at 489.

141. Republic v. Bacas, G.R. No. 182913, 710 SCRA 411, 432 (2013) (citing *Collado v. Court of Appeals*, G.R. No. 107764, 390 SCRA 343, 374 (2002)).

such, the government can institute reversion proceedings, subject only to laches.¹⁴²

Given the above discussion, so too, should negotiated sales under Republic Act No. 10752 or The Right-of-Way Act¹⁴³ be foreclosed.

IV. CONCLUSION

All in all, the system, as it stands, is not optimal and does not enjoy the same level of stability the legal landscape enjoys through the introduction of the Torrens system and the principle of indefeasibility or incontrovertibility of the decree of registration. Again, this Article is only exploratory and merely introduces some of the questions and discomfiture attendant the expropriation of untitled land. With these questions posed, the solution lies not too far ahead.

142. “While the general rule is that an action to recover lands of public domain is imprescriptible, said right can be barred by laches or estoppel.” *Estate of the Late Jesus Yujuico v. Republic*, G.R. No. 168661, 537 SCRA 513, 532 (2007).

143. *See* The Right-of-Way Act.