

THE CADASTRAL ACT ANNOTATED

[ACT NO. 2259]

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[CONTINUED]

Section Five

SEC. 5. When the lands have been surveyed and platted, the Director of Lands, represented by the Attorney-General (now Solicitor-General), shall institute registration proceedings by petition against the holders, claimants, possessors, or occupants of such lands or any part thereof, stating in substance that the public interests require that the titles to such lands be settled and adjudicated, and praying that such titles be so settled and adjudicated. The petition shall contain a description of the lands and shall be accompanied by a plan thereof, and may contain such other data as may serve to furnish full notice to the occupants of the lands and to all persons who may claim any right or interest therein. (As amended by Sec. 1855, Ad. Code.)

If the lands contain two or more parcels held or occupied by different persons the plan shall indicate the boundaries or limits of the various parcels as correctly as may be. The parcels shall be known as "lots" and shall on the plans filed in the case be given separate numbers by the Director of Lands, which numbers shall be known as "cadastral numbers." The lots situated within each municipality, township or settlement, shall, as far as practicable be numbered consecutively, beginning with the number "one" and only one series of numbers shall be used for that purpose in each municipality, township or settlement. In cities or townsites a designation of the land holdings by block and lot numbers may be employed instead of the designation by cadastral numbers and shall have the same effect for all purposes as the latter. (As amended by Sec. 1856, Ad. Code.)

ART. 5. Cuando los terrenos hayan sido medidos y sus planos levantados, el Director de Terrenos, representado por el Fiscal General (hoy Procurador-General), instituirá procedimientos de registro, mediante solicitud, contra los tenedores, reclamantes, poseedores u ocupantes de los terrenos de que se trate o de cualquier parte de los mismos, expresando en substancia que el interés público exige que se fije y declare el dominio de dichos terrenos, y pidiendo que el dominio sea fijado y declarado. La solicitud contendrá una descripción de los terrenos, irá acompañado de un plano de los mismos, y podrá contener los demás datos conducentes a dar pleno conocimiento a los ocupantes de los terrenos y a todas las personas que aleguen cualquier derecho a ellos o interés sobre los mismos. (Tal como quedó enmendado por el Art. 1855 del Código Administrativo.)

Si los terrenos contienen dos o más parcelas poseídas u ocupadas por diferentes personas, el plano indicará los límites de las diversas parcelas con la posible exactitud. Las parcelas se designarán como "lotes" y en los planos que se presenten en el caso se señalarán con números distin-

tos por el Director de Terrenos, números que se denominarán "números catastrales." Los lotes situados dentro de cada municipio, TOWNSHIP o ranchería, se numerarán correlativamente en cuanto sea posible, empezando con el número "uno" y sólo se usará una serie de números para dicho efecto en cada municipio, TOWNSHIP o ranchería. En las ciudades, o reservas para pueblos, podrá hacerse la designación de los solares por los números de las manzanas y lotes en lugar de la designación por números catastrales, y tendrán el mismo efecto que la última para todos los fines. (Tal como quedó enmendado por el Art. 1856 del Código Administrativo.)

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| 1. Duty of applicant or claimant to prove title. | 5. Lands of the State. |
| 2. Registration of possessory information. | 6. Land granted to a homesteader not subject to cadastral proceeding. |
| 3. Difference in area; boundaries. | 7. Amendment of plan; new publication necessary. |
| 4. Evidence of possession. | |

1. **Duty of applicant or claimant to prove title.** That no person is entitled to have land registered under the Cadastral or Torrens system unless he is the owner in fee simple of the same, even though there is no opposition presented against such registration by third persons, has been decided by the courts many times. One of the primary and fundamental purposes of the registration of land under the Torrens system is to secure to the owner an absolute indefeasible title, free from all encumbrances and claims whatever, except those mentioned in the certificate of title issued to the owner by the court, absolute proof of such title. In order that the petitioner for the registration of his land shall be permitted to have the same registered, and to have the benefit resulting from the certificate of title finally issued, the burden is upon him to show that he is the real and absolute owner, in fee simple, of the land which he is attempting to have registered. The petitioner is not necessarily entitled to have the land registered under the Torrens system simply because no one appears to oppose his title and to oppose the registration of his land. He must show, even though there is no opposition, to the satisfaction of the court, that he is the absolute owner, in fee simple. Courts are not justified in registering property under the Torrens system, simply because there is no opposition offered. Courts may, even in the absence of any opposition, deny the registration of the land under the Torrens system, upon the ground that the facts presented did not show that the petitioner is the owner, in fee simple, of the land which he is attempting to have registered. (Maloles and Malvar vs. Director of Lands, 25 Phil. 548; De los Reyes vs. Paterno, 34 Phil. 420, 424; Roman Catholic Bishop of Lipa vs. Municipality of Taal, 38 Phil., 367, 376).—Director of Lands vs. Agustin, 42 Phil., 227, 228-229, 42 J. F. 240.

2. **Registration of possessory information.** The appellee contends that the registration of the possessory information amounted to a registration of ownership under the provisions of section 397 of the Spanish Mortgage Law of February 8, 1861. To begin with, we may state that the Spanish Mortgage Law of February 8, 1861, was never in force in the Philippines, and, consequently, section 397 thereof relied upon was likewise never in force. The mortgage law in force in this country on December 12, 1892, when the possessory information of E. F. was registered,

was the Mortgage Law for the Philippine Islands, which took effect on October 1, 1889 (Berriz, *Diccionario de la Administración de Filipinas, Anuario de 1889*, 295, 396 *et seq.*)—*Sales vs. Director of Lands*, 35 Off. Gaz., 186.

3. **Difference in area; boundaries.** We have seen that if this land were a portion of that which formerly belonged to E. F., the result would be that the area of the entire land would reach 445 hectares, instead of 50 hectares, as clearly stated in the possessory information. The appellee insists that this discrepancy in the area is not important because in the identification of lands, their boundaries are controlling. The principle would be applicable if natural boundaries were involved; but in the instant case it will be seen that, except the north and south sides of the land, bounded by the San Miguel Bay and the Talacop River, respectively, the other sides were bounded by private and public lands. *Held*: That the great excess in area which has been explained, that the land formerly belonging to E. F. would have, if appellee's contention were to be accepted, is another factor which induces us to hold that the land did not form a part of that described in the possessory information; and, naturally, the same could not be transmitted either to E or to the appellant.—*Ibid.*

4. **Evidence of possession.** E. F., when he still owned and possessed all the land, testified under oath that all that he had was 50 hectares, so much that he appealed to the municipal council of Calabanga, when some officials assigned to the property a greater area, insisting and obtaining at the time that his property should not be given an area of more than 50 hectares and that he should not be required to pay a land tax for more than the said area. That testimony and admission militates against the applicant under section 278 of the Code of Civil Procedure.—*Ibid.*

5. **Lands of the State.** The applicant alleges that he and his predecessors in interest have been in the continuous, open, public and peaceful possession of the land for more than forty years, and on this alleged possession he bases his right to register the same. The evidence of possession is fatal both to the applicant and to his predecessors, in interest. There is overwhelming evidence indicative that the entire land formerly belonging to F was grass land devoted to pasture, with the exception of certain portions now planted to coconuts. In the sworn tax declarations which E. F. and the applicant presented, neither of them showed that there was any improvement or planting of any kind. On the pasture land grazed animals belonging to F and to other neighbors and owners. Whatever planting of value there is on the land was done by the homesteaders-oppositors, and the houses built by the applicant are, as has been said, of recent construction. We conclude that neither the applicant nor his predecessors in interest has been in real possession of the land and that said occupation cannot be invoked as a title to register the land. In the supposition that this land was included in the possessory information, the latter cannot likewise be invoked as a sufficient means or title to register the ownership, because neither the applicant nor his predecessors in interest has been in the continuous and open possession of the property.—*Ibid.*

6. **Land granted to a homesteader not subject to cadastral proceeding.** The title to the land thus granted and registered may no longer be the subject of any inquiry, decision, or judgment in a cadastral proceeding. But a partition may be made in said proceeding, in accordance with the provisions of Act No. 2259.—*Manalo vs. Lukban and Liwanag*, 48 Phil. 973, 974, 48 J. F. 1029.

7. **Amendment of plan; new publication necessary.** An order of court in a cadastral case amending the official

plan so as to make it include land not previously included therein is a nullity unless new publication is made as a preliminary to such step. Publication is one of the essential bases of the jurisdiction of the court in land registration and cadastral cases, and additional territory cannot be included by amendment of the plan without new publication.—*Philippine Manufacturing Co. vs. Imperial*, 49 Phil. 122, 49 J. F. 128.

Section Six

SEC. 6. After final decree has been entered for the registration of a lot its cadastral number shall not be changed except by order of the Court of First Instance. Future subdivisions of any lot shall, with the approval of said Court, be designated by a letter or letters of the alphabet added to the cadastral number of the lot to which the respective subdivisions pertain. The letter with which a subdivision is designated shall be known as its "cadastral letter." *Provided, however*, That subdivisions of additions to cities or townsites may, with the approval of the court, be designated by block and lot numbers instead of cadastral numbers and letters.

All subdivisions under this section shall be made in accordance with the provisions of section forty-four of Act Numbered Four hundred and ninety-six, and the provisions of section fifty-eight of the said Act shall be applicable to conveyances of lands so subdivided.

ART. 6. *Después de dictado el decreto final de registro de un lote, no se cambiará su número catastral a no ser por orden del Tribunal del Registro de la Propiedad. Las sucesivas subdivisiones de un lote cualquiera se designarán, con la aprobación de dicho tribunal, por medio de una o de varias letras del alfabeto añadidas al número catastral del lote a que correspondan las respectivas subdivisiones. La letra con que se designe una subdivisión se conocerá como su "letra catastral"; ENTENDIENDOSE, SIN EMBARGO, Que las subdivisiones de las adiciones a las ciudades o reservas para pueblo pueden designarse, con la aprobación del tribunal, por los números de manzana y del lote en lugar de los números y las letras catastrales.*

Todas las subdivisiones hechas en armonía con este artículo, se harán de acuerdo con lo que dispone el artículo cuarenta y cuatro de la Ley Número Cuatrocientos Noventa y Seis, y el artículo cincuenta y ocho de dicha Ley será aplicable a las transferencias de terrenos subdivididos de este modo.

Section Seven

SEC. 7. Upon the receipt of the petition and the accompanying plan the clerk of the Court of First Instance shall cause notice of the filing of said petition to be published twice in successive issues of the Official Gazette, in both the English and the Spanish languages. The notice shall be issued by order of the court, attested by the clerk and shall be in form substantially as follows:

"REGISTRATION OF TITLES,
"..... Province,
COURT OF FIRST INSTANCE

"To (here insert the name of all persons appearing to have an interest and the adjoining owners so far as known),

and to all whom it may concern:

"Whereas a petition has been presented to said court by the Director of Lands, praying that the titles to the following described lands or the various parcels thereof be settled and adjudicated (insert description) you are hereby cited to appear at the Court of First Instance to be held at, in the Province of on the day of, Anno Domini 19 at o'clock, to present such claims as you may have to said lands or any portion thereof, and to present evidence, if any you have, in support of such claims.

"And unless you appear at said court at the time and place aforesaid your default will be recorded and the titles to the lands will be adjudicated and determined in accordance with the prayer of the petition and upon the evidence before the court, and you will be forever barred from contesting such petition or any decree entered thereon.

"Witness:, Judge of said court, this day of, A. D. 19

"Attest:

Chief of the General Land Registration Office."

ART. 7. Al recibir la solicitud y el plano que la acompaña el escribano del Tribunal del Registro de la Propiedad hará que se publique un edicto de la presentación de la misma en dos números consecutivos de la Gaceta Oficial, en inglés y español. El edicto irá expedido por orden del tribunal, testimoniado por el escribano, y tendrá en substancia la siguiente forma:

REGISTRO DE TÍTULOS
Provincia
JUZGADO DE PRIMERA INSTANCIA

A (aquí se insertarán los nombres de todas las personas que aparezcan con algún derecho y los de los propietarios colindantes en cuanto sean conocidos) y a todos los interesados.

Por cuanto el Director de Terrenos ha presentado a este Tribunal una solicitud pidiendo que se fije y declare el dominio de los terrenos descritos a continuación o de varias parcelas de los mismos (insértese la descripción) se cita a los arriba nombrados para que comparezcan ante el Juzgado de Primera Instancia en la sesión que ha de celebrarse en en la provincia de el día de del año del Señor de 19, a las, para que aleguen los derechos que tengan acerca de dichos terrenos o de cualquier parte de los mismos y las pruebas, si tienen alguna en que los apoyen.

Y si no comparecen ante dicho tribunal en la fecha y lugar antedichos, serán declarados en rebeldía y se fijará y declarará el dominio de los terrenos de acuerdo con lo pedido en la solicitud y en vista de la prueba presentada al tribunal, y quedarán para siempre incapacitados para impugnar dicha solicitud ni ningún dictado según ella.

., juez de dicho tribunal, a de de 19
Doy fe:

Escribano del Tribunal

Section Eight

SEC. 8. The return of said notice shall not be less than thirty days nor more than one year from the date of issue. The court shall also, within seven days after the publication of said notice in the Offi-

cial Gazette as hereinbefore provided, cause notice to be mailed by the clerk to every person named therein whose address is known. The court shall also cause a duly attested copy of the notice to be posted, in the English and the Spanish languages, in a conspicuous place on the lands included in the application, and also in a conspicuous place upon the chief municipal building of the municipality, township or settlement in which the lands or a portion thereof are situated, by the sheriff of the province, or by his deputy, or by such other person as may be designated by the court, fourteen days at least before the return day thereof. A copy of the notice shall also be sent by registered mail to the president of the municipal council of the municipality, township or settlement in which the lands are situated, and to the provincial board. The court may also cause other or further notice of the petition to be given in such manner and to such persons as it may deem proper.

ART. 8. El plazo para el cumplimiento de este edicto no podrá ser menor de treinta días ni mayor de un año, a contar desde la fecha de su expedición. El tribunal, dentro de los siete días siguientes a la publicación de dicho edicto en la Gaceta Oficial, como queda dicho, hará también que se envíe el mismo por correo por el escribano a todas las personas nombradas en él cuya dirección sea conocida. El tribunal hará también que se fije una copia debidamente testimoniada del mismo, en inglés y en español, en un lugar visible de los terrenos comprendidos en la solicitud, y también en un lugar visible del principal edificio municipal del pueblo, TOWNSHIP o ranchería en que radiquen los terrenos o alguna parte de los mismos, por el sheriff de la provincia o su delegado, o por la persona que el tribunal designe, catorce días por lo menos antes de la fecha en que venza el plazo para la comparecencia mencionada. También se enviará copia del mismo certificado por correo al presidente del consejo del municipio, TOWNSHIP o ranchería en que radiquen los terrenos y a la junta provincial. El tribunal puede disponer también otro o nuevo edicto de la solicitud de la manera y a las personas que considere convenientes.

Section Nine

SEC. 9. Any person claiming any interest in any part of the lands, whether named in the notice or not, shall appear before the Court by himself, or by some person in his behalf and shall file an answer on or before the return day or within such further time as may be allowed by the court. The answer shall be signed and sworn to by the claimant or by some person in his behalf, and shall state whether the claimant is married or unmarried and, if married, the name of the husband or wife and date of the marriage, and shall also contain:

(a) The age of the claimant.

(b) The cadastral number of the lot or lots claimed, as appearing on the plan filed in the case by the Director of Lands, or the block and lot numbers, as the case may be.

(c) The name of the barrio and municipality, township or settlement in which the lots are situated.

(d) The names of the owners of the adjoining lots as far as known to the claimant.

(e) If the claimant is in possession of the lots claimed and can show no express grant of the land by the Government to him or to his predecessors in interest the answer shall state the length of time he has held such possession and the manner in which it has been acquired, and shall also state the length of time, as far as known during which his predecessors, if any, held possession.

(f) If the claimant is not in possession or occupation of the land the answer shall fully set forth the interest claimed by him and the time and manner of its acquisition.

(g) If the lots have been assessed for taxation, their last assessed value.

(h) The incumbrances, if any, affecting the lots and the names of adverse claimants as far as known.

ART. 9. *Todo el que alegue algún interés en cualquier parte de los terrenos, haya sido o no nombrado en el edicto, comparecerá ante el tribunal por sí mismo o representado por alguna otra persona, y presentará una contestación antes del día en que haya de darse por cumplimentado el edicto, o en dicho día, o dentro del plazo ulterior que el tribunal haya podido conceder. La contestación irá firmada y jurada por el alegante o por alguna otra persona en su nombre y expresará si el reclamante es o no casado, y si lo es, el nombre de su conyuge y la fecha del matrimonio, y expresará también:*

(a) *La edad del reclamante.*

(b) *El número catastral del lote o de los lotes reclamados como aparezca en el plano presentado en el expediente por el Director de Terrenos, o los de la manzana y del lote, según el caso.*

(c) *El nombre del barrio y del municipio, TOWNSHIP o ranchería, en que radiquen los lotes.*

(d) *Los nombres de los propietarios de los lotes colindantes, en cuanto el reclamante los conozca.*

(e) *Si el reclamante está en posesión de los lotes que reclama y no puede probar una causación expresa del terreno por el Gobierno a él o a sus causantes, la contestación ha de expresar el lapso de tiempo por el cual ha tenido la posesión y la manera como la adquirió, y expresará también el lapso de tiempo, en cuanto le sea conocido, durante el cual tuvieron la posesión sus causantes, si los hay.*

(f) *Si el reclamante no está en posesión del terreno o no lo ocupa, la contestación expresará plenamente el derecho que alegue y la fecha y la manera de su adquisición.*

(g) *Si los lotes han sido amillarados para la contribución, el último valor de amillaramiento.*

(h) *Los gravámenes si los hay, que afecten a los lotes y los nombres de los reclamantes adversos hasta donde sean conocidos.*

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| 1. When verification of protest is not necessary. | Procedure, when applicable. |
| 2. Provisions of Code of Civil | 3, 4. Jurisdiction to dismiss answer. |

1. When verification of protest is not necessary. Whatever may be the rule as to the necessity of verifying a protest filed by a private person in a cadastral proceeding, it does not apply to the Government in a case where the proceedings were initiated by one branch of the Government

in which an opposition was filed against private persons by another branch, who appeared and asserted their respective rights against the Government itself.—*Government of the Philippine Islands vs. Hormillosa*, 49 Phil. 362, 49 J. F. 377.

2. Provisions of Code of Civil Procedure, when applicable. Act No. 496, known as the Land Registration Act, contains no special rule as to the procedure to be followed in contesting the sufficiency of answers in cadastral registration proceedings, or in determining whether their dismissal will lie, therefore the provisions of the Code of Civil Procedure are applicable.—*Dais vs. Court of First Instance of Capiz*, 51 Phil. 396, 51 J. F. 417.

3. Jurisdiction to dismiss answer. In ordering that the answer presented by the judicial administrator of an intestate estate in the name of the heirs be stricken out, notwithstanding the latter's objection and for a cause not provided by law as a ground for dismissal, the respondent court exceeded its jurisdiction, for it is necessary not only that it have jurisdiction over the subject matter in litigation and the parties but that it have authority over each and every one of the essential particulars of the action.—*Ibid.*

4. When two persons claim the ownership of one and the same cadastral lot, both of them are claimants and opponents at the same time, and their respective answers cannot be dismissed by the court except upon the grounds mentioned in sections 101 and 127 of Act No. 190, to wit, default at the trial, failure to prosecute, or defects provided by the law as grounds for demurrer.—*Ibid.*

Section Ten

SEC. 10. The governor of the province shall, upon the request of the Court, detail an officer or employee of the province to assist the defendants in any action brought under this Act in the preparation of their pleadings and evidence, without cost to them: *Provided, however*, That the Court may, in its discretion, detail any of its employees to perform such service, and in case of the failure of the provincial governor to make suitable provision of the assistance of the defendants as above set forth, the court may, with the approval of the Secretary of Justice, employ for such purpose the necessary personnel, to be paid out of provincial funds. The officer or employee detailed, or the person employed to assist the defendants, shall prepare their answer, which shall be sworn to before such officer, employee or person. No fees shall be charged for the preparation, acknowledgment and filing of the answer, nor shall a documentary stamp be required. The court shall, at some convenient date prior to the expiration of the time for filing the answer, cause such general notice to be issued to all persons interested as may be necessary fully to inform them of the purposes of this section and their rights with respect thereto.

ART. 10. *El gobernador de la provincia, a petición del tribunal, designará a un funcionario o empleado de la misma para que ayude a los demandados en cualquier juicio que se incoe con sujeción a esta Ley, a preparar sus alegaciones y pruebas, sin que les cueste nada: ENTENDIÉNDOSE, SIN EM-BARGO, Que el tribunal puede a su discreción destinar a*