

Title Insurance Company

(Continued from last month's issue)

- *The Ultimate Development in Real Estate Security, and Invaluable Aids to Those with Land to Sell or Money to Loan.*

A modern title insurance company offers the public a varied list of important services. First of all, of course, it issues policies of title insurance upon real property. The procedure is for a prospective buyer of land to give the title company a description of the property he proposes to buy, and requests what is known as a Preliminary Report upon Title. Title companies now have such excellent and complete records in their offices showing all real estate transfer (or nearly all) in their particular counties, and their personnel are so highly trained in the work of running down titles to real estate that, within two or three days in the average they are able to issue Preliminary Reports showing in detail the ownership of property, taxes against it including sales for unpaid taxes, if any; mortgages or other security instruments; "stray" deeds; defects in title resulting from imperfect probate proceedings—in short complete reports upon the title as of the date of the reports.

Title Insurance Companies are geared so as to take most of the work out of the hands of the client. As often as not, clients request a "search" of the title of a piece of land without knowing the description of that land. They may know the name of the adjoining owner, or they may know that the particular property is about 100 feet from a church, or some such other exasperatingly vague description. This is enough for the title company. From it the

exact piece of land in question can be found, and reported on.

The Preliminary Report carries no liability on the title company. It is what its name implies—a report preliminary to the closing of the deal. Prospective buyers or mortgagees are expected to study the report and, if they are satisfied with the condition of the title as it appears thereon, they may proceed to close the deal with their other parties and the title policy will be issued. If the report shows the title to be seriously defective, they may demand that the other party clear it up, either by an action in court, by obtaining quitclaim deeds, or by other means satisfactory to the title insurance company.

As we shall see, title insurance companies commonly go much farther than this. They frequently are called upon to explain to their clients the nature and importance of any defects in title which appear, specify the steps which will be necessary to remove those defects, and even to take those steps themselves in some cases. Title men have been known to go so far as to go out and get quitclaim deeds themselves and put them on record, in order to clear up a title, and close a deal.

Banks, Building and Loan Associations, the Federal Government lending agencies, private lenders, real estate brokers—in short, all those who deal in real estate now demand title insurance where they can get it. This means, simply, that the title

companies have the final say as to whether a real estate transaction shall be completed, simply by agreeing or refusing to issue a policy of title insurance.

Title companies also issue what are known as "Litigation Reports." These are reports upon title similar to their Preliminary Reports, made at the request of, usually, lawyers contemplating litigating over real property, or bringing litigation which might incidentally involve real property. With a Litigation Report in hand, an attorney is in a position to draw a fool-proof complaint or other pleading.

Mortgagees who are forced to foreclose on property request "Foreclosure Reports." Through the use of them, mortgagees can carry through to completion foreclosure proceedings which will meet all of the stringent requirements of law, and result in a clear title in the mortgagee, free of all junior encumbrances.

Title Insurance Companies do not confine their activities to real property. They frequently examine records for instruments describing personal property, either because such instruments may incidentally create encumbrances on real property, or because they are requested to do so by clients contemplating chattel mortgage loans.

Other incidental services rendered by title insurance companies could be described. The most important of these is the Escrow Service.

Many of these companies maintain Escrow Departments. These departments are



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composed of men who are highly trained in real property law, contract law, the law of wills and succession, insurance law, etc., and act as agents of buyers and sellers, and mortgagors and mortgagees in helping them to close real estate transactions. They receive, for example, a deed from a seller, with the former's instructions to deliver the deed when the escrow officer has received a certain amount of money for the account of the seller. From the buyer the escrow man will take the specified amount of money, with instructions to deliver it to the seller when the title insurance company can issue its policy of title insurance showing the title to the piece of real property in question to be in the buyer, free

and clear of all liens or encumbrances.

This is the simplest form of real estate deal. It is, of course, "duck soup" for the escrow officer. Unfortunately for his peaceful existence, however, many property transactions are not so simple. Sometimes three or more pieces of property are traded back and forth. Encumbrances existing are to be paid off, or assumed, or transferred. Fire insurance must be transferred to new owners, or cancelled and new policies obtained. New encumbrances must be obtained, and recorded in their proper order.

As a usual thing, clients do not know how to write instructions to the escrow department which will embrace all of the elements involved in even the simplest deal. The escrow officer must himself write these instructions, and get them signed. Strangely enough, he prefers this situation. It is when attorneys or real estate brokers unfamiliar with modern methods of handling property deals undertake to write long, involved and utterly useless instructions that he tears his hair.

When the escrow department has obtained all of the instruments necessary to comply with instructions received from all parties to a deal (usually buyer, seller, and mortgagee), it then records these instruments with the County Recorder, and the policy of title insurance is issued. Then funds are paid to whomever is entitled to receive them under the terms of the escrow instructions. Usually funds are paid to the seller, to the real estate broker for his commission, and to the former mortgagee. The deal is then marked "closed."

It is impossible to glean from the foregoing even an inkling of the enormous importance of the services rendered by title insurance companies in real estate transac-

tions. Without them, it is safe to say that real estate "booms" in many localities would be impossible. Through the use of their facilities, real estate brokers are relieved of the tedious details of their transactions, and are left free to consummate sales. Even their commissions are paid directly by the title companies—one of the best features about title companies, from the brokers' point of view.

There are no institutions in the Philippines which resemble title insurance companies. It is argued that they are not needed here, because of our system of registering titles under the Torrens System (Act 496). Under this system, an insurance fund is provided, out of which are paid losses to buyers or mortgagees resulting from certain specified failures of title. We italicise "specified"—many of the most frequently-encountered failures of title are not insured against under this system. Besides that, many restrictions hedge about recoveries from the insurance fund, even in ordinary cases.

In the next issue of the Journal we expect to outline in our opinion how the Land Registration Law is defective.

Sailing the...

(Continued from page 39)

population is housed here in homes built on the high piles, being born, living and dying without leaving the place. It is a world of its own tiny shops, stores, houses and homes all jumbled together and on top of each other.

In down town Jolo, there are splendid examples of old Spanish houses, including the Customs house built, as usual, around a court, with overhanging second stories. The old wall which once defended the city, is still to be seen in parts of gates and other defences.

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