

vided to be no ground or reason for his dismissal is an action which seeks the performance of a legal duty and may be enforced by *mandamus*. *BAUTISTA v. ONG*, G.R. No. 19310-R. February 13, 1958.

REMEDIAL LAW — CIVIL PROCEDURE — A JUDGMENT BY CONFESSION IS UNAPPEALABLE AND IMMEDIATELY EXECUTORY, EXCEPT IN CASES OF FRAUD, MISTAKE OR DURESS. — A complaint was filed in the Manila Municipal Court seeking the recovery of the sum of P1,527.00 as the supposed outstanding indebtedness of defendant Manuel Viernes to the plaintiff Marciano Lubis for bananas and other fruits which the former had received from the latter on credit previous to November 24, 1952. A judgment of confession was entered by the Municipal Court. Viernes appealed to the Court of First Instance where he filed an answer to the complaint. Plaintiff Lubis moved to dismiss the appeal on the ground that the judgment of confession appealed from was unappealable and immediately executory. The motion was denied and judgment was subsequently rendered dismissing the complaint. Hence this appeal. **Held**, a judgment by confession is unappealable and immediately executory, except in cases of fraud, mistake or duress. The facts showed that fraud or mistake already surrounded the rendition of judgment in the court of origin. *LUBIS v. VIERNES*, G.R. No. L-21094. April 14, 1958.

REMEDIAL LAW — SPECIAL PROCEEDINGS — SECTION 1 OF RULE 74 OF THE RULES OF COURT AUTHORIZES ONLY HEIRS OR LEGATEES OF THE DECEDENT TO ASK FOR THE EXTRAJUDICIAL SETTLEMENT OF THE ESTATE. — Laureana Tinatan and Constantino Serilla were legally married on March 14, 1925. Arcadio Serilla is their only legitimate child. Arcadio Serilla was the natural son of Constantino with Emilia Servano. Arcadio was never acknowledged. Laureana Tinatan, as the surviving spouse of Constantino, claimed a piece of land by inheritance from their only legitimate child, Macario. The land was also claimed by the defendant Joaquin Santa Cruz, who possessed and had title over the property, through a series of conveyances among the defendants touched off by Arcadio Serilla's pretense that he was the sole heir of the deceased Constantino Serilla. Arcadio had executed an extrajudicial declaration of heirship which he filed with the Register of Deeds, as a result of which he was able to secure a Torrens title in his own name in lieu of the original title in the name of Constantino Serilla. Judgment was rendered in favor of the plaintiff. Hence this appeal. **Held**, section 1 of Rule 74 of the Rules of Court authorizes only heirs or legatees of the decedent to ask for the extrajudicial settlement of the estate. Since Arcadio Serilla is neither an heir nor a legatee of the late Constantino Serilla, he cannot avail himself of the provisions of sections 1 and 41 of Rule 74 and the inscription of his extrajudicial declaration of heirship certainly did not make his case any better. *TINATAN v. SERILLA*, G.R. No. 18242-R. March 26, 1958.

BOOK NOTES

PHILIPPINE LAW ON NATURAL RESOURCES. By Antonio H. Noblejas. Manila: Central Book Supply Inc., 1957. Pp. xvii, 368. P——.

Law as a profession requires continuous study. Most helpful to students and members of the bench and bar for such study are lawbooks, lawbooks which are up to date with the most recent cases and established jurisprudence on the principles involved. This is such a book; it objectifies the "natural abhorrence to lag behind and proclivity to keep pace with the swift passing time" on the part of the author who is indisputably the leading authority in the field which it encompasses. Since its debut in 1955, its author has made it a point to revise the book for three times. This, its latest edition like its forerunners, contains and discusses the treaties and agreements relating to the law on natural resources, the latest decisions of the Supreme Court, pertinent rulings of the Secretary of Agriculture and Natural Resources, and opinions of the Secretary of Justice. Likewise, the author has embodied in it resolutions to consultas laid down by him and prescribes, furthermore, solutions to problems prevalent in this field of law as he has gathered them from queries submitted to him in his official capacity as the Commissioner of Land Registration.

The book is divided into eight chapters, the topics discussed in the style which is all the author's own. The first chapter carries a preliminary statement to the vast laws of natural resources together with the Constitutional provisions about natural resources and the corresponding national policy. The second chapter deals with the Public Land Law which begins with a discussion of its historical background; it also discusses the "Land for the Landless" policy of the government and like any of the chapters contains decisional rules, latest doctrines of the Appellate Courts and in addition the Department of Agriculture and Natural Resources decisions, opinions of the Secretary of Justice, consultas decided by the Land Registration Commission and answers to questions submitted to him in his official capacity. The third chapter covers the Mining Act; the historical background of our Mining Laws and the cases decided under each law. The fourth chapter is about the Petroleum Law or Petroleum Act of 1949. Here the author takes occasion to say that on the basis of information gathered from reliable authorities in the United States "putting up of an oil refinery in the Philippines with

a capacity to supply its domestic needs is a sound business investment even at present when there is yet no domestic production of crude oil from our fields". Chapter Five deals with the disposition of Coal Lands. The Forest Law is discussed with the Forestry cases of the Department of Agriculture and Natural Resources and are treated under the sixth chapter. Chapter seven deals with the Fisheries Act, the last chapter with the Law on Water and Water Rights.

The book also contains a Table of Philippine Laws on Natural Resources and their requirements which is certainly of much valuable help. At the end of the book is a table of the cases cited by the author in the book and a full complement of invaluable Appendages.

It is our considered judgment that this book is truly an excellent one. It has everything that it takes. No one who takes hold of it and either skim on its surface or delve deep into its profundity can lay it down for keeps and not pat his own breast for having come across it. To be sure nobody to whom are denied the opportunities thrown open to him in the position of Commissioner of Land Registration which the author holds can be reasonably expected to produce an equally excellent book on the subject.

LAND TITLES AND DEEDS. By Antonio H. Noblejas. Manila: Villanueva Book Store, 1958. Pp. ix, 600. ₱_____.

As the bar examinations draw near, the foremost problem of every candidate is how to thoroughly prepare himself. What books to read, which of the numerous subjects to review first. Among the eight subjects covered by the bar examinations is Land Registration. The examination on this subject is conducted in the afternoon of the first Sunday of August. It is the second examination. Thus in every Pre-Bar review class held during the summer before the bar examinations, lectures on this subject have never been ignored by bar candidates. But the review of the subject must not be limited to listening to lectures. Students must on their own accord choose the best book on the subject and acquaint themselves with what are contained therein so as to be able to derive more from the lectures. This would also strengthen their grasp of the subject and prepare them for whatever question in the bar examination.

We recommend to all reviewees the book written by the Commissioner of Land Registration, Hon. Antonio H. Noblejas. The recommendation is not without basis. A careful study of the 1958 edition of this book Land Titles and Deeds, will reveal that the answers to the 1958 Bar Examinations on the subject are found in one way or the other in it. An example is the answer to the first question — "(a) What lands are and what are not registerable under Act 496?" which is found on page 31 of this book.

PHILIPPINE JURISDICTION — LANDS SUBJECT TO INITIAL REGISTRATION

(1) Private lands — Those lands which have been segregated from the general mass of the public domain by any form of grant by the State, and which are in the possession of the original grantees or their successors-in-interests. The title to the property may be in the form of a gratuitous sale, adjustment title, special grant, or possessory information title converted into a record of ownership.

(2) Public agricultural land to which claimants have acquired imperfect or incomplete title within the contemplation of Section 48 of Commonwealth Act No. 141 — Most of the lands now occupied or possessed by the people throughout the Philippines are not covered by titles issued by the Government. Hence, they have not been segregated from the public domain and are considered as public lands. However, the present possessors or claimants thereof may have imperfect or incomplete title thereto which justifies the registration of said lands in their names, provided that they fulfill all the conditions prescribed by Section 47 and 48 of Commonwealth Act No. 141. (See Republic Act No. 1942, approved June 22, 1957, amending Sec. 48 (b) of Com. Act No. 141.)

(3) Disposable public lands to which no one has acquired imperfect title — The major portion of the agricultural public lands in the Philippines may be disposed of by homestead, administrative legalization (free patent), sale, donation, exchange and lease.

LANDS NOT SUBJECT TO REGISTRATION

Under the law (Act 496), the following lands are not registerable by any private person in his name: (1) those devoted to general public use as for example public roads, plazas, canals, streets, rivers, banks and shores; (2) those devoted to public service as for example towns, walls and fortresses; (3) public forest; (4) mineral lands and (5) those reserved by the government for public or quasi-public purposes. It will be observed, however, that the Constitution provides that all natural resources, except agricultural lands, are inalienable (Article XIII, Section 1, Constitution). Public forests are non-alienable public lands. Possession of public forests on the part of the claimant, however long, cannot convert the same into private property (*Vaño vs. Government of P.I.*, 41 Phil. 161; *Li Seng Giap y Cia vs. Director*, 55 Phil. 693; *Fernandez Hnos. vs. Director*, 57 Phil. 929).

This book has been divided by the author into fourteen chapters exclusive of the several appendices. Each chapter is grouped into two parts. The first part covers the introduction. The second part includes the Torrens System in the Philippines which embraces its origin, validity and nature; who may apply for registration under Act No. 496; proceedings in original registration of privately owned lands, remedies available to aggrieved party in registration cases, Torrens certificate of title, subsequent