

106. — When possession is exercised through a representative, the presumption of ownership is in favour of the possessor.

It passes in favour of the representative when he becomes possessor, that is to say only when he begins to possess on his own account under a new title, or by notifying the original possessor of his intention to do so, or because his personal obligation to return the thing is extinguished by prescription.

Can. 2195. F. 2231, 2238. I. 687 (2), 2118. J. 185.

Illustrations: — A has deposited a silver bowl with B. A remains the presumed owner of the bowl.

I. — A bequeaths the bowl to B and dies. B becomes possessor of the bowl under a new title, as legatee, and is henceforth the presumed owner.

II. — A being in debt towards B, B notifies A that he will keep the bowl in settlement of the debt. B is henceforth possessor and presumed owner of the bowl.

III. — A forgetting all about his bowl remains ten years without asking B to return it. B's obligation to return the deposit is extinguished by prescription. B begins henceforth to possess the bowl on his own account and to be presumed owner of it.

107. — As regards unoccupied lands belonging to the public domain of the State, mere possession without grant confers no right of ownership. The State is not bound to grant the land to the possessor but it may dispose of it at its own discretion, even when a Court has

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given a judgment in a case of dispossession or disturbance in favour of the possessor who has exercised the rights of action in accordance with the foregoing sections.

S. 937.

Illustration.—*A has settled on a piece of waste land and has received from the Land Officer a bai-yieb-yam for that piece of land. B unlawfully takes possession of part of that piece of land. A applies to the Court, under section 99, and judgment is given in his favour against B.*

After some time it becomes apparent that the piece of land is larger than A is able to cultivate. In consequence a land certificate is granted to A for part only of the piece of land, excluding the very part of which B had unlawfully taken possession. Nothing in the judgment prevents the State from granting that part to I, or from deciding that such part shall henceforth be considered as land reserved for the use of the State.

As such waste land cannot be acquired by way of usucapion, the fact that A has possessed it during ten years or more would likewise not prevent the State from reducing the area of that piece when a land certificate shall be granted or even from refusing altogether to grant a land certificate to A.

108. — As regards immovables, possession can never be set up against the registered owner except by a hostile possessor who, having completed usucapion, has the right to claim registration as owner.

The same rule applies to the following movables : ships or vessels having displacement of and over six

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The same rule applies to the following movables : ships or vessels having displacement of and over six

tons, steam-launches or motor-boats having displacement of and over five tons, floating-houses and beasts of burden.

Illustration:—A is the registered owner of a house in Bangkok. A goes abroad and ceases to look after his house in any way as from the 1st. April 2462. B finding the house abandoned takes possession of it on the 15th. of August 2463.

If A comes back before the 15th. of August 2473 and claims the house, B derives from his possession no presumption of ownership against A, the registered owner.

If A comes back and claims the house on the 15th. of August 2473, B can set up against A the presumption of ownership derived from possession (although B has not yet had registered his right of ownership, acquired by way of usucapion).

TITLE II.

Usucapion.

109. — Usucapion is the way by which a possessor acquires the right of ownership by long and uninterrupted use.

J. 162.

110. — A person who openly and without interruption possesses a specific or identified thing belonging to another person for a period of

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