

3. *Accion reivindicatoria* or *accion de reivindicacion* or reivindicatory action, which is an action for recovery of ownership which must be brought in the proper inferior court or Regional Trial Court.

In an *accion reivindicatoria*, the cause of action of the plaintiff is to recover possession **by virtue of his ownership of the land** subject of the dispute. This follows that universe of rights conferred to the owner of property, or more commonly known as the attributes of ownership. In classical Roman law terms, they are:

1. *Jus possidendi* or the right to possess;
2. *Jus utendi* or the right to use and enjoy;
3. *Jus fruendi* or the right to the fruits;
4. *Jus accessionis* or right to accessories;
5. *Jus abutendi* or the right to consume the thing by its use;
6. *Jus disponendi* or the right to dispose or alienate; and
7. *Jus vindicandi* or the right to vindicate or recover.

*Jus vindicandi* is expressly recognized in paragraph 2 of Article 428, Civil Code, viz.: "The owner has also a right of action against the holder and possessor of the thing in order to recover it."<sup>1</sup>

In the consolidated cases of *Catindig v. Vda. de Meneses (Catindig)* and *Roxas, Sr. v. Court of Appeals*, the Court reiterated that:

x x x [1] It is a fundamental principle in land registration that the certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein. It is conclusive evidence with respect to the ownership of the land described therein. Moreover, the age-old rule is that the person who has a Torrens title over a land is entitled to possession thereof. In addition, as the registered owner, [the] right to evict any person illegally occupying [the] property is imprescriptible.

In the recent case of *Gaudencio Labrador, represented by Lulu Labrador Uson, as Attorney-in-Fact v. Sps. Ildefonso Perlas and Pacencia Perlas and Sps. Rogelio Pobre and Melinda Fogata Pobre*, the Court held that:

As a registered owner, petitioner has a right to eject any person illegally occupying his property. This right is imprescriptible and can never be barred by laches.

Clearly, this case falls within the ambit of an *accion reivindicatoria*. There is no question that there exists a title of the property in the name of the plaintiffs nor was such fact denied by the defendants. Plaintiffs' action for recovery of possession is by virtue of the title issued to them. The only issue to ponder is whether or not the defendants are occupying a portion of the property registered in the name of the plaintiffs. A discussion on how to determine the boundaries and settle the issue is thus proper.

It is provided that a *survey* is the process by which a parcel of land is measured and its boundaries and contents ascertained; also a map, plat or statement of the result of such survey, with the courses and distances and the quantity of the land. A case of overlapping of boundaries or encroachment depends on a reliable, if not accurate, verification survey.<sup>2</sup>