

INDEFEASIBILITY OF TITLE UNDER THE TORRENS SYSTEM

AND THE MALAYSIAN NATIONAL LAND CODE 1965

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TABLE OF CONTENTS.

	page
Preface	i
Acknowledgement	iii
Table of Cases	iv
List of Abbreviation	vi
List of Statutes	vii

CHAPTER 1

INTRODUCTION	1
1. The Introduction of the Torrens System in the 1890's and subsequent developments to the present day	2
2. A statutory system of dealings in land within the frame work of the Torrens System	4

CHAPTER II

THE MACHINARY OF REGISTRATION	9
1. The Administrative Officers	12
2. The Registers	14
3. The Issue Document of Title	14
4. Procedure and Manner of Registration	16

CHAPTER III.

INDEFEASIBILITY OF TITLE AND INTEREST UNDER THE PRESENT NATIONAL LAND CODE 1965.	23
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CHAPTER IV.

REGISTRATION OF DEALING IN LAND AND ITS EFFECT UNDER THE TORRENS SYSTEM	30
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1. Indefeasibility of title:

1a - Persons entitle to the benefit of the indefeasibility - the position of volunteers	36
1b - Immediate indefeasibility	39
1c - Deferred indefeasibility	41

CHAPTER V.

THE EXTENT OF INDEFEASIBILITY OF TITLE

1. Limitation of states grant	49
2. Overriding interest	51
3. Equity and indefeasibility	54
4. Claim in personam	57

CHAPTER VI.

CONCLUSION	61
APPENDICES	

CHAPTER I

INTRODUCTION

The Torrens System of registration of land titles, with ideals of the liability, simplicity, speed and low cost, originated in the State of South of Australia in 1857 and became law there in 1891 by Sir William Maxwell and enacted as law for Singapore on 12th June 1956 with the passing of the Land Titles Ordinance. Beside the other states of Australia some of the countries where it is in operation are New Zealand, Canada, United States of America, Nigeria, Northern Ireland, Brunei and Fiji Island. Gradual transfer to this system is the aim in England and Wales where it is at present compulsory in certain areas and optional in others.¹

The Torrens System is a system arecord where the recognition of this record was done under the statutory provision. The provisions provides that the register is everything. It is where the titles to land rest and titles shall pass when a designated official of the State Register of Transfer which is made out and presented to the official on prescribed form. It is the state who can effectively transfer the land, not the parties. The need for an indefeasible title springs from the main object of the Torrens System which is to save persons

dealings with registered proprietors from the trouble and expenses of going behind the register in order to investigate the history of their author's title and satisfy themselves of its validity.²

1. THE INTRODUCTION OF THE TORRENS SYSTEM IN THE 1890'S
AND SUBSEQUENT DEVELOPEMENT TO THE PRESENT DAY

The Torrens System was introduced in the Malay States with the passing of the Registration of Titles Enactment in 1890's and it has been considered with respect to the matter of registration of titles to land as regards to its effect as between the state and the private landowners.

W.E. Maxwell was a person who was responsible of converting Australia Torrens System to Selangor, when he became the commissioner of land in the Strait Settlement. It did not actually take to the Torrens System, its only influence the establishment of a system for the recording of customary holdings in Malacca where the machinery of registration was used to settle claims and to record charges of ownership.

In 1891 W.E. Maxwell was appointed as the British Resident in Selangor where he passed the Registration of Titles Regulations (1891) and he introduced the system of the mukim register for