

**PREVENTION AND PROTECTION IN LAND TRANSACTION : CASES OF
FORGERY IN RELATION TO TRANSFER**

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The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the works of others.

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Abstract

Registration is the key to a land title, hence, all instruments of dealings must be registered in accordance with the National Land Code 1965 (NLC). Section 340(1) of the NLC clearly states that a title is indefeasible once it is duly registered. Indefeasible title means the title cannot be challenged, questioned or attacked by adverse claim.

However this indefeasible title can be challenged if it falls under one of the exceptions provided under subsection (2) of Section 340 of the NLC. The exceptions are fraud, misrepresentation, forgery, insufficient or void instrument. However, the proviso to Section 340(3) of the NLC allows for a title to remain indefeasible although the title was obtained by any means mentioned under Section 340(2) provided that the subsequent purchaser was a bona fide purchaser for value. This bona fide purchaser for value needs to satisfy these two requirements i.e paying for valuable consideration and acting in good faith.

Forgery is the main focus of this research. Forgery is an act of one person signing in the name of a registered proprietor or any person who has an interest in the land on any instrument of dealing, without the registered proprietor's authorization and knowledge. The dispute between the registered proprietor and the bona fide purchaser for value concerning in relation to forgery are discussed and examined with reference to the statutory provisions in the NLC and relevant cases.

Debates over the controversial judgment made by Justice Tun Eusoff Chin in the landmark case of *Adorna Properties Sdn. Bhd v Boonsom Boonyanit [2001] 1 MLJ 241* and the doctrine of 'stare decisis' will also be discussed in relation to the repercussions that it has caused. The landmark decision has stirred a plethora of arguments and debates as to the effect and impact on the rights of a registered proprietor as well as protection afforded to them. Hence, there is a need to review the existing law in our country in relation to the issue of forgery as manifested by the decision in Adoma. In furtherance to

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