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ILLUSTRATION. — A, B and C contract to build a house for D and deliver it to D at a fixed time under penalty of 50 baht for each day of delay. If the house is not delivered in time, D may claim the whole of the penalty from A or from B or from C.

287. — Earnest money is a sum of money which is delivered by one of the parties to an obligation to the other party, before or at the time when the contract is entered into and which is fixed by the parties as the amount of compensation in case of non-performance of the obligation.

The party who is not in default is entitled either to specific performance or to compensation up to the amount of the earnest money, that is to say :

[1) if he has received the earnest money he is entitled to forfeit it;]

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[2) if he has delivered the earnest money. he can claim double amount of earnest money.]

In any other respect the provisions concerning penalty clause apply to earnest money.

TITLE III.

RIGHTS OF THE DEBTOR.

CHAPTER I.

DEFAULT OF THE CREDITOR.

288. — The creditor is bound to receive performance of the obligation if the performance tendered is such as provided by the obligation or by law.

289. — The creditor is in default ~~from the time when~~ [after] a tender of performance is made to him.

290. — No tender of performance is necessary in the following cases :

1) If the creditor has expressly declared that he will refuse to receive performance.

2) If the performance of the obligation by the debtor depends on an act to be done by the creditor, and the creditor does not do such act.

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2) if he has delivered the earnest money, he can claim double amount of earnest money.

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