

311. — Whenever a person is entitled by law to withhold or retain money or property not belonging to him, the creditors of the owner of such money or property can exercise no rights over it until such person has given up possession or has been satisfied.

312. — A creditor who satisfies another creditor of the same debtor is subrogated to the rights of that other creditor against the debtor up to the amount of the sum paid by him.

But he cannot exercise such rights to the injury of the creditor.

313. — No preferential rights or rights to retain a property may be created in favour of creditors other than those mentioned in, or exceeding the limits laid down by, law.

CHAPTER II.

SPECIAL PREFERENTIAL RIGHTS.

314. — A creditor in whose favour an obligation exists based upon one of the following grounds has a special preferential right over particular properties of the debtor :

1) Sale of movable property, deposit, carriage, lodging in an inn, agency, pledge, endorsement of a warrant, warehousing.

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1) Sale of movable property, deposit, carriage, lodging in an inn, agency, pledge, endorsement of a warrant, warehousing.

- 2) Preservation of property.
- 3) Hire of work.
- 4) Hire of immovable property.
- 5) Sale of immovable property or mortgage.

315. — The preferential rights mentioned in Section ~~294~~³¹⁴ No. 1 are described in the parts of this Code dealing with the sale, deposit, carriage, inn-keepers, agency, pledge and ware-housing.

316. — The preferential right arising out of the obligation based upon preservation of property (S. 314 No. 2) is for the cost of preservation and is over such property.

317. — The preferential right arising out of the obligation based upon hire of work (S. 314 No.3) is :

1) If the hire of work is in relation to movable property, for the sums due to a contractor by the hirer of work, and over the movable property which is the result of the work ;

2) If the hire of work is in relation to immovable property, for the sums due to a contractor by the hirer of work up to the increase of value resulting from such work, and over the immovable property upon which the work has been done.

318. — The preferential right arising out of the obligation based upon hire of immovable prop~~erty~~^{erty}

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2) If the hire of work is in relation to immovable property, for the sums due to a contractor by the hirer of work up to the increase of value resulting from such work, and over the immovable property upon which the work has been done.

318.—The preferential right arising out of the obligation based upon hire of immovable property

(314 No. 4) accrues to the lessor of immovable property or of a floating house or of a house boat, who has a preferential right over the movables which are on, or in the property leased. This right does not extend to movables which have been found or which are the proceeds of any offence; or which the lessor knew or ought to have known were not the property of the lessee.

The preferential right of the lessor is for the payment of the rent and of any other monies which may be due by the lessee to the lessor in connection with the lease.

319. — In case of lease of agricultural land, the preferential right of the lessor extends to such fruits of the land as are in the possession of the lessee.

320. — If the lease is transferred or there is a sublease, the preferential right of the lessor extends :

1) To the movables brought by the transferee or sublessee.

2) To the monies which may be due by the transferee or sublessee to the original lessee by reason of the lease.

A payment of rent made in advance by the sublessee cannot be set up against the original lessor.

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321.—The preferential right arising out of the obligation based upon sale of immovable property

(S 314 No. 5) is for the price and accessories and is over such property.

322. — The preferential right arising out of the mortgage (S. 314 No. 5) is described in the part of this Code relating to Mortgage.

323. — The preferential rights arising out of sale of movable property, deposit, carriage, lodging in an inn, agency, pledge, endorsement of warrants, warehousing (S. 314 No. 1) are extinguished if the creditor gives up possession of the movable property which is subject to his preferential right.

324. — The preferential rights arising out of preservation of property or out of hire of work (S. 314 No. 2 or 3) can be exercised :

1) over a property which is movable, as long as the ownership of such property remains in his debtor.

2) over a property which is immovable, even though the ownership of such property has been transferred to a third person, provided that the creditor has had his preferential right registered before the transfer, not later than one month from the act of preservation or from the termination of the work, as the case may be.

325. — The preferential right arising out of the hire of immovable property (S. 314 No. 4) can be exercised on movables so long as they are still on, or in, the immovable property.

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The less~~e~~[o]r can object to such movables being removed until he has been satisfied, and ~~attach~~[seize] them if necessary to prevent their removal.

326. — The preferential rights arising out of the sale of immovable or mortgage (S. 314 No. 5) can be exercised over the property, even though the ownership of such property has been transferred to a third person, provided that they have been register~~ed~~ before the transfer.

327. — The person who applies for registration of a preferential right on an immovable other than mortgage must produce to the Registrar a statement showing the names of the creditor and the debtor, the description of the property, the nature and amount of the claim, and the date of application.

328. — The preferential right arising out of Section 314 No. 1 can be exercised [by the creditor] on the monies or other properties due to the debtor by third persons for the loss of, or damage caused to, the property which is subject to his preferential right, if such loss or damage happened while he was in possession of it.

The preferential right arising out of Section 314 No. 2, 3, 4 or 5 can be exercised on the monies or other properties due to the debtor by third persons for the hire, transfer or loss of, or for the damage caused to, the property which is subject to such right.

[Provided that such monies or properties be seized by order of the Court, either before or after judgment before they are paid or delivered to the debtor.]

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