CIVIL LAW — OBLIGATIONS — FAILURE OF AN OBLIGOR TO PAY AN OBLIGATION, CONTRACTED DURING THE JAPANESE OCCUPATION WITHIN THE PERIOD STIPULATED DOES NOT BAR HIM FROM AVAILING OF THE BENEFITS OF THE BALLANTYNE SCHEDULE. — In Sept., 1944, defendants mortgaged the lands in question in favor of the mortgage for the sum of ₱1,700 in Japanese war notes payable at any time within a period of two years thereafter. Later in 1953, the mortgagee sold all his rights to plaintiff who immediately instituted action against defendants. The lower court ruled that since defendants could have settled their debt at anytime within two years from Sept., 1944, the Ballantyne scale was applicable and ordered defendants to pay plaintiff the mere sum of ₱180 with legal interest in Philippine currency. Plaintiff appealed contending that in view of defendants' failure to pay their obligation within the stipulated period of two years from Sept., 1944, they may no longer avail of the benefits of the Ballantyne scale. *Held*, this pretense is devoid of merit. Non-payment of said obligation, despite the expiration of said period, had no other effect than to give the creditor the right to sue for the recovery of the amount due, plus damages for said default in the performance of said obligation. (Arts. 1170 and 1193, Civil Code). The decision appealed from is hereby affirmed. MELENDEZ *v.* LAVARIAS, G.R. NO. L-17724, Nov. 29, 1963.

CIVIL LAW — OBLIGATIONS — ONLY ACTUAL CREDITORS MAY ASK FOR THE RESCISSION OF WRONGFUL CONVEYANCES MADE BY THEIR DEBTORS IN FAVOR OF STRANGERS. — Plaintiffs filed a complaint alleging among others that defendant company, while indebted to the former, fraudulently conveyed to its co-defendant a certain land which was its only available property and prayed that such conveyance be rescinded. Defendants moved to dismiss the complaint on the ground of plaintiffs' lack of capacity to sue, the latter, as creditors of defendant company having released and waived their claims against it prior to the alleged fraudulent conveyance. *Held*, the duly accredited waiver and release by plaintiffs of the credits they held against defendant company and the absence of any allegation or evidence of its invalidity operate to deprive the rescissory action of any legal basis. Upon the execution of the release, plaintiffs ceased to be creditors of said defendant and were then deprived of any interest in assailing the validity of the conveyance in question. Under the Civil Code, only actual creditors can ask for the rescission of conveyances made by their debtors in favor of strangers. MARSMAN INVESTMENTS LTD. *v.* PHIL. ABACA DEV'T. CO., G. R. NO. L-19160, Dec. 26, 1963.

CIVIL LAW — PERSONS — CERTIFICATES AND DOCUMENTS RELATING TO PETITIONS FOR CORRECTION OF ENTRIES IN THE CIVIL REGISTER MAY NOT BE REGISTERED THEREIN. — Petitioner filed this petition to change the entry respecting his name in his child's birth certificate. The court dismissed the petition but ordered the Local Civil Registrar to register and attach to the child's birth certificate a copy of the record of the Bureau of Immigration showing petitioner's real name. The state appealed contending that the document in question is not among those which may be registered under the Civil Register Act which authorizes only the registration of documents and certificates having relation to adoptions, changes of names, naturalization, legitimation and acknowledgement which may be decreed in proper proceedings. *Held*, the certified copy of the record of the Bureau of Immigration showing petitioner's real name is not one of the registrable certificates and documents referred to in Sec. 12(a) of the Civil Register Act. Only those having reference to adoptions, changes of names, naturalization, legitimation and acknowledgment, as provided in Secs. 10 and 11, are registrable. LIONG *v.* REPUBLIC, G.R. No. L-18608, Dec. 26, 1963.

CIVIL LAW — PERSONS — ENTRY OF ONE'S ALIAS NAME IN THE CIVIL REGISTER DOES NOT CONSTITUTE MISTAKE OF A CLERICAL NATURE CORRECTIBLE UNDER ART. 412 OF THE CIVIL CODE. — This is a petition to change the entry of petitioner's name in the register of births and birth certificates of his three children from "Lui Bian Thong" to "Lui Lin" alleging that although the former name is not the name of a different person, it is not petitioner's real name but his *alias name*. The petition was filed under Art. 412 of the Civil Code, and the state opposed on the ground that the correction asked does not involve mere mistake of a clerical nature correctible under said provision. *Held*, since it is admitted that the name entered in the birth certificates is not the name of another person but petitioner's *alias* name, it cannot be contended that the doctor who gave the information regarding the name to be included in said certificates has committed a mistake, for in fact she gave one of the correct names of petitioner. And even if "Liu Lin" is petitioner's real name, for which reason he wants a change in the register of births, that cannot be considered a mere clerical mistake for it is something that may affect his status or the paternity of his children. Petition denied. LIN *v.* NUÑO, G.R. No. L-18213, Dec. 24, 1963.

CIVIL LAW — PROPERTY — A HOUSE OF MIXED MATERIALS MAY, BY AGREEMENT, BE CONSIDERED AS A CHATTEL BETWEEN THE PARTIES, AND THE CONTRACT TO THAT EFFECT IS VALID, BUT NOT WITH RESPECT TO THIRD PERSONS NOT PARTIES TO THE CONTRACT. — Defendants obtained a ₱2,500 loan from plaintiff, payable in 6 months, secured by a real estate mortgage over a parcel of land and a chattel mortgage over a two-story residential home built on land belonging to another, and a motor truck, both mortgages being contained in one instrument. Defendants failed to pay, and plaintiff brought suit to foreclose the mortgage. Defendants claim that the deed of real

estate and chattel mortgage is invalid, since the house subject of the chattel mortgage is erected on land belonging to a third person. They contend that a house is immovable under article 415 irrespective of who owns the lot as long as it adheres to the land. *Held,* the contention is untenable. The lower court predicated its decision on the doctrine of estoppel, since the parties expressly agreed to consider the house as a chattel. Previous cases of similar nature point out that a house of mixed materials may by agreement be considered as a chattel between the parties and the contract to that effect, held as valid, although it is to be considered as immovable with respect to third persons not parties to the contract. In this case, it is one of the parties to the mortgage contract who assails its validity, and not a third person. NAVARRO *v.* PINEDA, G.R. No. L-18456, Nov. 30, 1963.

CIVIL LAW — PROPERTY — TRANSMISSION STEEL TOWERS OF THE MERALCO ARE NOT IMMOVABLE PROPERTIES. — Petitioner declared the transmission steel towers of the Meralco subject to real property tax and demanded from the latter payment of the corresponding taxes. Meralco paid under protest and filed this claim for refund contending that the steel towers are not real properties since they are removable from the ground and merely attached to a square metal frame by means of bolts, which when unscrewed, could easily be dismantled and moved from place to place, and hence, are not subject to the real property tax. *Held,* the legal provisions applicable are pars. 1, 3 and 5 of Art. 415 of the Civil Code enumerating real properties. The towers do not come under par. 1 since they are not constructions analogous to buildings nor adhering to the soil. They cannot be included under par. 3 as they are not attached to an immovable in a fixed manner, and they can be separated without breaking the material or causing deterioration upon the object to which they are attached. Lastly, even if the steel supports or towers are considered as machineries, receptacles, instruments or implements, still par. 5 would not apply since Meralco is not engaged in an industry or works on the land in which they are constructed. BOARD OF ASSESSMENT APPEALS *v.* MANILA ELECTRIC CO. G.R. No. L-15334, Jan. 31, 1964.

CIVIL LAW — SUCCESSION — ADULTEROUS CHILDREN WHOSE PUTATIVE FATHER DIED BEFORE THE EFFECTIVITY OF THE NEW CIVIL CODE LEAVING OTHER HEIRS HAVE NO SUCCESSIONAL RIGHTS IN THE LATTER'S ESTATE OTHER THAN THE RIGHT TO SUPPORT. — Plaintiffs were adulterous children of the deceased who died in 1942. In 1957, they filed an action against defendant, widow of the deceased, for the partition of several lots belonging to the conjugal partnership of the deceased and the latter. The lower court dismissed the complaint on the ground that under the provisions of the old Civil Code, applicable in the instant case because the deceased died prior to the effectivity of the new Civil Code, plaintiffs, as adulterous children, are entitled to nothing more than the right to support. Plaintiffs appealed contending that under Art.

2264 of the new Civil Code, the benefits of the successional rights granted by said Code to adulterous children "shall also be acquired by children born before the effectivity" thereof. *Held*, the cited provision is subject to the qualification prescribed in Art. 2253 of the same Code, that "if a right should be declared for the first time" therein — and such is, admittedly, the nature of the right invoked by plaintiffs — "it shall be effective at once x x x *provided said new right does not prejudice or impair any vested or acquired right.*" When the deceased died in 1942, his other heirs, under the old Civil Code then in force, acquired the right to succeed him in his estate, *without the successional rights now conferred to adulterous children by the new Civil Code.* Hence, plaintiffs cannot avail of such rights without impairing those of the other heirs of the deceased in 1942. However, under Art. 845 of the old Civil Code, such of the plaintiffs as were minors in 1942 had a cause of action against defendant, though neither for partition nor for accounting, but merely for the enforcement of the right of support granted to adulterous children. MEJIA *v.* MEJIA, G.R. No. L-18882, Nov. 29, 1963.

COMMERCIAL LAW — NEGOTIABLE INSTRUMENTS ACT — GROSS NEGLIGENCE OF A DRAWEE-BANK IN ALLOWING PAYMENT OF WARRANTS BEARING ITS FORGED INDORSEMENT BARS IT FROM RECOVERING AGAINST COLLECTING BANKS. — 28 treasury warrants were paid by plaintiff drawee to the defendant collecting banks wherein they were deposited for collection after the former cleared the same through the clearing house. The depositors then withdrew the amounts credited in their favor by defendants. 21 days after the last warrant was cleared, plaintiff demanded from defendants the return of the amounts paid on the ground that all the warrants contained the forged signature of the former. The defendants refused so plaintiff filed suit which was dismissed by the court on the ground that the loss was imputable to the gross negligence of plaintiff. Hence, this appeal. *Held*, plaintiff was guilty of unreasonable delay in discovering the forgery of its own signature. Notice of the forgery was given to defendants only after 21 days from the date the last warrant was cleared, in violation of the 24-hour rule adopted by the clearing house of which plaintiff is a member. Moreover, plaintiff was negligent in clearing the warrants notwithstanding that each was irregular on the face thereof since each was for an amount over ₱5,000, which is beyond the authority of plaintiff's auditor, whose signature had been forged, to approve. Hence, the loss of the amount is mainly imputable to the gross negligence of plaintiff, for which defendants should not and cannot be penalized. REPUBLIC *v.* EQUITABLE BANKING CORP., G.R. Nos. L-15894-95, Jan. 30, 1964.

COMMERCIAL LAW — PUBLIC SERVICE ACT — EX PARTE REDUCTION OF RATES OF A PUBLIC UTILITY BY THE PUBLIC SERVICE COMMISSION BASED ON MERE REPORT DISPUTED BY THE OPERATOR IS AGAINST DUE PROCESS AND HENCE, NULL AND VOID — Petitioner filed this petition for certiorari to annul an *ex parte*