Vivencio F. Abaño

ARTICLE 1687 OF THE CIVIL CODE: ON EXTENSION OF LEASE

Introduction

The renewal or extension of a lease is subject to the agreement of the parties. Generally, in the absence of such an agreement to renew or extend a lease, the lessee has as against his lessor no right to a renewal or extension thereof. [1]

There are certain emergency rental legislations, however, such as Presidential Decree No. 20 and, modifying it, Batas Pambansa Blg. 25.[2] The latter, by limiting the grounds for judicial ejectment, in effect grants an extension where the lease is without a fixed period. [3] Such emergency rental legislation is nevertheless of temporary duration and applies only to specified dwelling units and residential lands.

Apart from such emergency legislation, the new Civil Code itself contains a provision whereby an extension of a lease may be given to a lessee under certain conditions, without the agreement or even against the will of the lessor. This is Article 1687 applicable not only to leases of residential premises but also to leased occupation for commercial and industrial purposes.

> "Art. 1687. If the period for the lease has not been fixed, it is understood to be from year to year, if the rent agreed upon is annual; from month to month, if it is weekly; and from day to day, if the rent is to be paid daily. However, even though a monthly rent is paid, and no period for the lease has been set, the courts may fix a longer period for the lease after the lessee has occupied the premises for over one year. If the rent is weekly, the courts may likewise determine a longer period after the lessee has been in possession for over six months. In case of daily rent, the courts may also fix a longer period after the lessee has stayed in the place for over one month."

Application of Article 1687

The first sentence of Article 1687 was taken from Article 1581 of the old Civil Code. Under the old Code, a verbal contract of lease without a fixed term was considered as one from month to month if the rents were payable monthly, and it ceased to have force and effect at the end of every month unless there was a tacit renewal of the same.[4]

Similarly, Article 1687 of the new Civil Code applies when there is *no fixed period* for the duration of the lease, [5] as when the understanding between the lessor and the lessee as to the term of the lease was vague and uncertain that it cannot be said that a fixed term was contemplated or agreed upon. [6] In which case, the period is fixed by law (legal period): if the rent is paid daily, the lease is from day to day; if it is paid weekly, the lease is from week to week; and if paid monthly, the lease is from month to month.

Article 1687, therefore, will not apply where there is a *fixed period* for the lease agreed upon by the parties *conventional period* , whether the same be definite or indefinite. An example of a fixed period, though indefinite, is when the lease provides that the lessee will leave as soon as the lessor needs the premises. The period is really fixed, although indefinite.

Thus, in a case it was held that where the lessor and lessee had agreed that the lessee would vacate the premises as soon as the lessor needed the same, and the lessor subsequently notified the lessee that she needed the land for her own use, the lease was terminated and it was error for the trial court to give the lessee a longer term by applying Article 1687. [7]

Article 1687 also applies when at first there was a fixed period for the lease, but said term has expired and an implied new lease *(tacita reconduccion)* is created pursuant to Article 1670.[8]

> "Art . 1670. If at the end of the contract the lessee should continue enjoying the thing leased for fifteen days with the acquiescence of the lessor, and unless a notice to the contrary by either party has previously been given, it is understood that there is an implied new lease, not for the period of the original contract, but for the time established in articles 1682 and 1687. The other terms of the original contract shall be revived."

The last three sentences of Article 1687 are new. Whereas under Article 1581 of the old Civil Code the lessee had no right to an extension of the lease upon termination thereof by the lessor, under Article 1687 of the new Civil Code the courts are in certain cases and under certain circumstances allowed to fix a longer period.

Request for Extension

Article 1687 provides that where the period for the lease has not been fixed, it is understood to be from month to month if the rent agreed upon is monthly. The lessor, therefore, has the right to terminate the

lease at the expiration of any month, giving timely notice thereof to the lessee.

> *"The right of the landowner to terminate a month-to-month lease, even if none of the conditions of the lease has been violated has been upheld by the Supremes Court time and again.* x x x Our examination of the record of the case shows that there was no fixed period for the lease; that there were merely implied monthly renewals *(tacita reconduccion)* of the lease (Arts. 1670, 1687, Civil Code); that there was no implied renewal of the lease for the month of June 1963, in view of the letter of plaintiff-lessor to the defendant-lessee dated May 29, 1963 (Exhibit B) requesting the latter to vacate the leased premises at the end of the month (Article 1670, Civil Code); and that the defendant-lessee failed or refused to comply with the demand on the ground that he needed the premises for his furniture business. In view of these facts, *the right of plaintiff-lessor to judicially eject the defendant-lessee in June 1963, when the complaint for ejectment was filed, was, and is, incontestable."*[9] (Italics supplied)

The question arises: *May the lessee request for extension of the lease under Article 1687, even if the same has already been terminated by the lessor?*

Involving as it does the conflicting rights of the lessor and the lessee under Articles 1687, the question is not a mere exercise in inconsequential technicalities. As will be seen, jurisprudence on the matter has not given a consistent answer.

1. **Prieto Ruling: Prior Request**

In the early case of **Prieto vs. Santos,**[10] decided on February 20, 1956, the Supreme Court stated:

> "Under this provision (Article 1687) if the period of a lease contract has not been specified by the parties therein, it is understood to be from month to month, if the rent agreed upon is monthly, as in the case at bar. Consequently, the contract expires at the end of such month, unless *prior thereto,* the extension of said term has been sought by appropriate action and judgment is, eventually, rendered therein granting said relief."

Commenting on the above ruling of the Supreme Court, Justice Edgardo Paras noted that:

> "In the Prieto Case, the Court held that a lease contract where the rent is payable *monthly* expires at the end of each month, *unless* PRIOR thereto, the extension of the term has been sought by *appropriate action* and judgment is eventually rendered granting said relief. There is therefore unlawful detainer *by the lessees of the premises where the lessees are told to vacate at the end of a certain month, but* refuse *to do so, in the absence of a judgment of a court granting a longer term for the lessee. It is clear that the extension must be asked PRIOR to the expiration of the month, for if asked for after, there is NO more term to be* extended." [11] (Italics original)

Following the ruling in **Prieto vs. Santos,** therefore, the extension of the lease must be requested by the lessee **before** the termination thereof by the lessor. The lessee cannot make the request for the **first time** in the ejectment suit against him, precisely because the lease has already expired by then and there is no more term to be extended.

2. **Subsequent Judicial Rulings**

The ruling established in **Prieto vs. Santos** was not always followed or adhered to by inferior courts. Thus, there are ejectment cases wherein the trial courts applied Article 1687 and granted extensions inspite of the fact that the lessees therein had not made any judicial request prior to the expiration of their leases. [12] However, the fact that the Supreme Court or the Court of Appeals did not reverse the trial courts' grant of extension, cannot be deemed as constituting a reversal of the Prieto ruling. This is because the lessors in said cases did not appeal but accepted the trial courts' decision. It was the lessees who appealed contending that they should have been given longer extensions. This easily explains why such grant of extensions naturally had to be sustained by the appellate courts. For if a party accepts a decision no matter how erroneous it is, under our procedure the same must be binding on him.

It is significant that in those cases wherein the trial courts did not grant any extension and the lessees appealed the denial, the appellate courts reiterated the ruling in **Prieto vs. Santos.** Thus, in **Alegre vs. Laperal,** [13] decided on May 19, 1968, the Supreme Court held:

> "Said Article 1687 vests in the court the authority which it may exercise or *not,* to "fix a longer term'. Plaintiffs have not even tried to show that the lower court had abused its discretion in not extending the term for the lease. Moreover, we have held that said extension may be sought by the tenant *before,* not *after* the termination of the lease. (Prieto vs. Santos, 98 Phil. 509) The case at bar was commenced on January 5, 1965, or five (5) days after the expiration of the lease contract, pursuant to defendant's notice to the plaintiffs dated October 27, 1964." (Italics original).

And in **Sy Pat vs. Archbishop of Manila,** [14] decided on July 25, 1974, the Court of Appeals stated the following:

> "As can be gleamed from the record, the verbal lease between the parties clearly falls within the purview of Article 1687 x x x x The con-

tract was terminated at the end of each month subject to implied renewals. It may be remembered, however, that sometime after January 18, 1962, defendants advised the plaintiffs to vacate the premises as the same was already leased to Manuel Uy & Sons, Inc. The verbal and written notices to vacate the premises preclude the inference that there was an implied renewal of the lease contract. Consequently, the plaintiffs-appellants had lost their right to stay in the premises subject of this case after January 1962. *Since the complaint for the fixing of the period of the lease was filed only on February 5, 1962 said complaint had no basis. The lease contract for which a period was sought to be fixed was no longer in existence at the time the complaint was filed."* (Italics supplied)

It must be mentioned, of course, that there are certain decisions by the Supreme Court seemingly inconsistent with its early ruling in **Prieto vs. Santos**. Thus, in **Rodriguez vs. Abrajano**,[15] it was held that:

"Article 1687 of the Civil Code of the Philippines confers upon the courts discretion to 'fix a longer term for the lease after the lessee has occupied the premises over a year' on an *expired lease*, paying rental on a monthly basis." (Italics supplied)

Finally, in the more recent case of **Divinagracia Agro-Commercial, Inc. vs. Court of Appeals**,[16] decided on April 21, 1981, the Supreme Court gave a ruling clearly different from that of **Prieto vs. Santos**. The lessor therein appealed the grant of extension after the termination of the lease, contending that the "Court of Appeals practically made a contract between the parties which is contrary to the spirit and intent of Article 1687 of the New Civil Code." The Supreme Court held:

"Article 1687 of the New Civil Code must be correlated with Article 1197 of the New Civil Code which provides:

'Art. 1197. If the obligation does not fix a period, but from its nature and circumstances it can be inferred that a period was intended, the court may fix the duration thereof. x x x"

Considering both Articles together, it is at once clear and evident that the court is accorded the power to fix a longer term of the lease, which power is potestative or discretionary in nature. This prerogative is addressed to the court's sound judgment and is controlled by equitable considerations. 'The court may fix a longer term where equities come into play demanding an extension.'(Divino v. Fabie de Marcos, 4 SCRA 186)

It may not, therefore, be contended that the Court of Appeals in the exercise of its discretionary power under Article 1687 in relation with Article 1197 made a contract between the parties, since the very purpose of the law is not the fixing of a longer term for the lease, but to make the indefinite period of lease definite by fixing once and for all the remaining duration of the lease." (Italics supplied)

3. A Discussion

In **Divinagracia Agro-Commercial, Inc. vs. Court of Appeals**, the Supreme Court made a 180-degree turn from its early ruling in **Prieto vs. Santos**. An examination of the decisions in the two cases will readily show that the basis for their respective ruling is their contrasting views as to: (a) the purpose of Article 1687, and (b) the duration of lease contracts covered by said Article 1687.

Thus, in the recent case of **Divinagracia Agro-Commercial, Inc. vs. Court of Appeals**, the Supreme Court as already quoted, stated:

"It may not, therefore, be contended that the Court of Appeals in the exercise of its discretionary power under Article 1687 in relation with Article 1197 made a contract between the parties, *since the very purpose of the law is not the fixing of a longer term for the lease, but to make the indefinite period of lease definite by fixing once and for all the remaining duration of the lease."* (Italics supplied)

In complete contrast thereto, the Supreme Court had said the following in **Prieto vs. Santos**:

"Defendants herein maintain that their lease contracts did not, and could not, come to an end until after the court has fixed its lifetime and the term thus fixed has expired. This view, is, to our mind, untenable. To begin with, defendants assume that their contracts are without term, prior to the judicial action authorized in said Article 1687, whereas the same provides that the duration of lease contracts shall be yearly, monthly, weekly, or daily, depending upon whether the rental agreed upon is annual, monthly, weekly, or daily. *In other words, said contracts have a term fixed by law, and are not indefinite in duration, before said judicial intervention.* Secondly, said Article 1687 merely gives the court *discretion to extend the period of the lease.* The court is *not bound to extend* said term. It may legally refuse to do so, if the circumstances surrounding the case warrant such action. Thirdly, under appellants' theory, said contracts of lease would be of indefinite duration, subject to the authority of the court to fix its term. By the exercise of such authority, the court would determine, therefore, the limits of the lifetime of said contracts, which, otherwise, would be indeterminate, and would subsist indefinitely, pursuant to appellants' contention. Thus, the exercise of said authority would, in effect, shorten their period of the lease which, in the absence of judicial intervention, would be for a longer pe-

riod. *In other words, the result of appellants' theory would be exactly the opposite of that sought to be achieved by Article 1687, which is to permit the court to extend, not to reduce, the term of the lease.*" (Italics supplied)

It is rather difficult to reconcile the Supreme Court's statement in **Divinagracia Agro-Commercial, Inc. vs. Court of Appeals** that the purpose of Article 1687 is "not the fixing of a longer term", with the unequivocal provision of said article that "the court may fix a longer term for the lease after the lessee has occupied the premises for over one year." Such statement may perhaps not be faulted if it were true that the leases governed by Article 1687 are deemed to be of indefinite duration. But this is not so, because their terms are fixed by law.[17]

> "Art. 1687. If the period for the lease has not be fixed, it is understood to be from year to year, if the rent agreed upon is annual; from month to month, if it is monthly; from week to week, if the rent is weekly; and from day to day, if the rent is to be paid daily. x x x"

To hold otherwise would be to fall into the absurd position already pointed out in the above-quoted case of **Prieto vs. Santos**, that is, that the exercise of the authority under Article 1687 would, in effect, shorten and not extend, the period of the lease.

It is for the same reason that Article 1687 cannot be applied in correlation with Article 1197 which provides:

> "Art. 1197. If the obligation does not fix a period, but from its nature and the circumstances it can be inferred that a period was intended, the courts may fix the duration thereof. x x x "

In the first place, Article 1197 is a general provision while Article 1687 is a special provision for leases of **urban lands** and, therefore, controlling. Under the latter, the law itself fixes the term of the lease. Thus, for instance, a month-to-month lease expires at the end of every month, unless there is a tacit renewal thereof by the parties. [18] In fact, Article 1687 has a parallel provision applicable to leases of **rural lands**.

> Art. 1682. The lease of a piece of rural land, when its duration has not been fixed, is understood to have been made for all the time necessary for the gathering of the fruits which the whole estate leased may yield in one year, or which it may yield once, although two or more years may have to elapse for the purpose."

It is immediately evident that Article 1197 cannot have practical application in a case involving Article 1682 precisely because, under the latter, the law itself fixes the duration of the lease involved. If this is true

of Article 1682, a special provision for leases of **rural lands**, for the same reason, it must also hold true for Article 1687. This article, after all, is the counterpart provision applicable to leases of **urban lands**. [19]

Moreover, it must be remembered that the first sentence of Article 1687 fixing the duration of the lease without fixed period, was taken verbatim from Article 1581 of the old Civil Code. By retaining the same, the Code Commission clearly intended the judicial interpretation consistently given to Article 1581. Such construction includes not only that a month-to-month lease expires at the end of every month, but that Article 1128 of the old Civil Code, from which the present Article 1197 was derived, could not be applied nor correlated to said Article 1581.[20]

The Code Commission went a step further by adding the other sentences of Article 1687 whereby courts are given authority to fix a longer term for the lease under certain circumstances. These new sentences are completely unnecessary and a redundancy if indeed Article 1687 is to be related to Article 1197, the general provision giving courts the power to fix the duration for obligations without fixed periods. That the Code Commission retained verbatim the provision of Article 1581 of the old Civil Code and added thereto the other sentences of Article 1687 can only mean that the latter is a distinct special provision the meaning and application of which cannot be related to, much less governed by, Article 1197.

Justice Edgardo Paras, without elaborating his reasons therefor, said the following about Articles 1197 and 1687: [21]

> "In a lease contract, the court must fix the duration of the lease when a stipulation thereof reads – 'The owners of the land undertake to maintain the Lawn Tennis Club *as tenant as long as the latter shall see fit.*' (Here the court said that Art. 1197 applies because there was a *conventional period* though it was indefinite, and not Art. 1687 which applies only when no period was agreed upon, in which case the law fixes the *legal period* stated in Art. 1687) (Eleizegui v. Lawn Tennis Club, 2 Phil. 309); or when the contract states 'as long as the tenant pays the stipulated rent' (Yu Chin Piao v. Lim Tuaco, 33 Phil. 92)." (Italics original)

What perhaps influenced the Supreme Court in deciding as it did in **Divinagracia Agro-Commercial, Inc. vs. Court of Appeals** is the fact that the lessee in said case had been occupying the lease premises for 76 years. Thus, it ruled that the grant of five years extension was proper, even if under the other facts of the case and following the ruling in **Prieto vs. Santos** and other subsequent cases, such grant would have been a creation of a new contract between the parties not warranted under Article 1687.

On the other hand, how can the ruling in **Prieto vs. Santos** be reconciled with the rule that the lessee's right to an extension of the lease is a proper and legitimate issue in an ejectment case and may be used as a defense therein? The rule, cited in **Teodoro vs. Mirasol** and **Pardo vs. Encarnacion,**[22] was reiterated with direct reference to Article 1687 in **Ramirez vs. Sy Chit:** [23]

> "The exercise of the power given to the court in Article 1687 to extend the period of the lease when the defendant has been in occupancy of the premises for more than a year, *does not contemplate a separate action for the purpose.* That power may be exercised as an incident in the action for ejectment itself and by the court having jurisdiction over it." (Italics supplied)

An examination of these three cases will show that the requirement of a prior request for extension established in **Prieto vs. Santos** was not really touched upon by the decisions therein. For instance, in **Teodoro vs. Mirasol** and **Pardo vs. Encarnacion**, the lease contracts involved nad fixed and definite terms extendible or renewable upon written consent of the parties. The lessees therein were claiming the right to an extension under the provision of the written contracts, and not under Article 1687. In fact, the lessees filed petitions for declaratory relief prior to the expiration of their leases. When the lessors filed unlawful detainer suits, the lessees' petitions were ordered dismissed and the latters' claim for extension litigated in the actions for ejectment.

In **Ramirez vs. Sy Chit**, the lessee interposed Article 1687 as a special defense in the ejectment suit and asked the municipal court to fix the period of the lease. He was granted an extension of six months, but not satisfied with it, the lessee appealed to the CFI. The lessor did not appeal. During the pendency of the appeal, the lessor moved for execution alleging the failure by the lessee to continue paying the rents. The CFI granted the motion while at the same time affirming the decision of the municipal court. On direct appeal to the Supreme Court, the lessee averred that the municipal court should have dismissed the action for ejectment for lack of jurisdiction. He reasoned out that the special defense raised by him invoking Articles 1687 was a new matter which transformed the action into one for the fixing of the duration of the lease and pertained exclusively to the jurisdiction of the CFI. In dismissing such contention, the Supreme Court gave the above-quoted ruling.

The Supreme Court, therefore, did not say that a judicial request by the lessee prior to the expiration of the lease is not required by Article 1687. What may be deduced from the ruling in the three above-mentioned cases is that, if and when an ejectment suit is subsequently filed by the lessor, then the prior petition for extension of the lease under Article 1687 has to be dismissed to be litigated in the unlawful detainer proceedings.

One may argue that the requirement of a prior judicial request is unreasonable and oppressive, and contrary to the present trend towards social justice, of giving the lessees, who have less in life, more in law.

In answer, it will be recalled that Batas Pambansa Blg. 25, enacted as a social legislation for the benefit of the lessee, suspends the right of the lessor to terminate a lease without fixed period.[24] But its scope is expressly limited to residential leases and only when the monthly rent does not exceed ₱300. The national legislature, therefore, did not consider it demanded by social justice to include within the operation of said law leases of commercial and industrial premises, as well as of residential units with monthly rentals above ₱300. Insofar as these are involved, the right of the lessor to terminate a lease without fixed period remains. And so does the requirement that the lessee make a judicial request prior to the expiration of the lease.

4. Conclusion

Under Article 1687, the lessor has the right, subject to the provision of Batas Pambansa Blg. 25, to terminate a month-to-month lease at the end of any month, giving timely notice thereof to the lessee. The lessee's right to ask for an extension of the lease must be exercised by him before the expiration thereof in order to suspend the lessor's termination of the same. If the lessee makes the request after the expiration or for the first time during the ejectment suit, the same cannot be granted. This is because the lease has already expired and there is no longer any term to be extended by the court.

Grant of Extension

The extension of a lease under Article 1687 is based on equity, as determined from the circumstances of each case. As held in **Acasio vs. Corp. de los PP. Dominicos:** [25]

> "x x x under section 1687 the power of the courts to 'fix a longer term for the lease' is protestative or discretionary, – 'may' is the word – to be exercised or not in accordance with the particular circumstances of the case; a longer term to be granted where equities come into play demanding extension, to be denied where none appear, always with due deference to the parties' freedom to contract."

1. Grounds for Extension

The fact that the lessee has stayed in the premises for more than one month, six months or one year, as the case may be, does not make the

grant of extension mandatory on the court. The court may take into account the peculiar circumstances of the case, such as the manner in which the lessee has complied with his obligations,[26] the improvements he has made on the lot and the difficulty of looking for another place to which he could transfer such improvements, [27] or the availability of housing facilities in the area. [28] Thus, in a case, the court considered a mining company entitled in equity to have its right of possession extended, since it was in dire need of the leased premises for the development and operation of its mining claims and needed time to look for another suitable property. [29]

However, if the lessee is at fault, as when he made prohibited improvements on the leased premises, [30] he loses the right to be granted an extension of the lease under Article 1687.

2. Duration of Extension

How much longer should the lessee be allowed to remain in occupancy is also to be determined by the prevailing circumstances. Since the trial court is the one familiar with the conditions obtaining in each locality, its judgment on the additional period to be granted the lessee in each case will not be interfered with on appeal absent clear abuse of discretion. [31]

There have been instances, however, where the trial court granted a period of extension which would commence only upon finality of its decision. Thus, in **Divinagracia Agro-Commercial, Inc. vs. Court of Appeals**, the municipal court rendered a decision whereby the lessee "may continue to lease the premises for seven and a half years *to commence from finality of the decision.*" [32] In **Rodriguez vs. Abrajano**, judgment was rendered by the municipal court requiring the lessee to vacate and restore the premises "at the end of one year *from finality of the decision.*" [33]

As can be readily observed, such decisions do not grant a **fixed period** of extension. They in fact give **indefinite extensions** which an unscrupulous lessee can easily take advantage of by merely appealing the decision. Considering that appealed cases often drag on for years before being finally decided, a lessee can hold on to the premises much longer than the period required by even the most liberal demands of justice and equity. An extension of six months from the finality of the decision may in the end turn out to be several years of extension. [34]

If ever, therefore, an extension of the lease is to be given by the court, the period should not be unqualified but counted from the date of the decision. [35] To grant an otherwise **indefinite extension** is clearly in violation of the very provision of Article 1687 which provides that "the court may also **fix** a longer period." It is likewise in violation of the spirit and intent of Article 1674 which provides:

> "Art. 1674. In ejectment cases where an appeal is taken the remedy granted in article 539, second paragraph, shall also apply, if the higher court is satisfied that the lessee's appeal is frivolous or dilatory, or that the lessor's appeal is *prima facie* meritoious. The period of ten days referred to in said article shall be counted from the time the appeal is perfected." [36]

Relative thereto, the Supreme Court stated the following in **Laureano vs. Adil:** [37]

> "Article 1674 gives to the plaintiff in an unlawful detainer case originating in the inferior court and appealed to the CFI the remedy which article 539 gives to the plaintiff in a forcible entry case. *It is designed to eliminate the injustice of the old rule which allowed the lessees to continue in possession during an appeal even if the owner or plaintiff has an immediate right to the premises in litigation* (pp. 98, 143, Report of the Code Commission).
>
> Article 1674 is in consonance with the *summary character of an ejectment suit* which is an expeditious means for recovering possession of real property (Deveza vs. Montecillo, L-23942, March 28, 1969, 27 SCRA 822; Mara, Inc. vs. Estrella, L-40511, July 25, 1975, 65 SCRA 471) but *the effectiveness of which was often frustrated by defendant's dilatory tactics which were tolerated by inferior courts* (Vda. de Palanca vs. Chua Keng Kian, L-26430, March 11, 1969, 27 SCRA 356, 365-6)." (Italics supplied)

Indeed, equity may sometimes demand an extension of the lease in favor of the lessee, but not in total disregard of the lessor's right of ownership and possession.

FOOTNOTES

1. See Articles 1165, 1669, and 1670 of the New Civil Code.
2. Approved and took effect on October 12, 1972 and April 10, 1979, respectively. See 75 O. G. 3516.
3. Sections 5 and 6, Batas Pambansa Blg. 25.
4. Lopez vs. de Jesus, 43 O. G. 3086; Villanueva vs. Canlas, 43 O. G. 3052; Salang vs. Gatmaitan, CA-G. R. No. 468-R, Sept. 6, 1947.
5. Estrella vs. Sangalang, 76 Phi. 108; Buhay vs. Cabarrubias, 76 Phil. 213; Lapeña vs. Pineda, L-10089, July 31, 1957; Chua Lao vs. Raymundo, L-12662, Aug. 18, 1958.
6. Guitarte vs. Sabaco, L-13688-91, Mar. 28, 1960.
7. Lim vs. Vda. de Prieto, L-9189, Mar. 30, 1957, 53 O. G. 7678. But see Rantael vs. CA, 97 SCRA 453 and Cruz vs. Puno, 120 SCRA 497, where the Supreme Court considered the lease as having a definite period where the parties executed a contract for a month-to-month lease with the expressed stipulation that

the lessor could terminate the lease by giving a 30-day notice.

8. Miranda vs. Lim Shi, L-18494, Dec. 24, 1964; Dizon vs. Magsaysay, L-23399, May 31, 1974, 57 SCRA 250. See also Ottofy vs. Dunn, 38 Phil. 438.
9. Ilano vs. Mamaril, 11 CAR 770. See also Rivera vs. Trinidad, 48 Phil. 396; Cananay vs. Sarmiento, 79 Phil. 36; Casilan vs. Tomasi, 10 SCRA 761; Arevalo vs. Liantos, 5 CAR 310; Peligrino vs. General Base Metal, 39 SCRA 216; Fernando vs. Aragon, 76 Phil. 609; Galang vs. Gatmaitan, CA-G. R. No. 468-R; and Estrella vs. Sangalang, 76 Phil.108.
10. Prieto vs. Santos, 98 Phil. 503.
11. Edgardo L. Paras, Civil Code of the Philippines Annotated, 9th edition, Vol. 5, p. 328.
12. Hunniecutt vs. Flores, 59 O. G. 2772; Peligrino vs. General Base Metal, 39 SCRA 216; Ramirez vs. Sy Chit, 21 SCRA 1364.
13. Alegre vs. Laperal, 23 SCRA 934.
14. Sy Put vs. Archbishop of Manila, CA-G. R. No. 48062, July 25, 1974.
15. Rodriguez vs. Abrajano, 27 SCRA 1269.
16. Divinagracia Agro-Commercial, Inc. vs. CA, 104 SCRA 180.
17. See Footnote No. 4. Also Oasan vs. Zabala, 43 O. G. 1193; Racaza vs. Susana Realty, 18 SCRA 1172.
18. Ibid.
19. See Article 1670.
20. Pineda vs. Liwanag, 40 O. G. 80; Licauco vs. Metran, 43 O. G. 1682.
21. Edgardo L. Paras, *idem*, Vol. 5, p. 185.
22. Teodoro vs. Mirasol, 99 Phil. 150; Pardo vs. Encarnacion, 22 SCRA 632.
23. Ramirez vs. Sy Chit, 21 SCRA 364.
24. Crisostomo vs. CA, 116 SCRA 206.
25. Acasio vs. Corp. de los PP. Dominicos, 100 Phil. 524.
26. Susana Realty vs. Hernandez, 54 O. G. 2206.
27. Divino vs. Marcos, *supra.*
28. Susana Realty vs. Hernandez, *supra.*
29. Peligrino vs. General Base Metal, 39 SCRA 216.
30. Prieto vs. Lim, 51 O. G. 5254; also Susana Realty vs. Hernandez, *supra.*
31. Rodriguez vs. Abrajano, 27 SCRA 1269.
32. Divinagracia Agro-Commercial, Inc. vs. CA, 104 SCRA 180.
33. Rodriguez vs. Abrajano, *supra.* See also Imperial Insurance vs. Sinion, 14 SCRA 855.
34. Prieto vs. Santos, *supra;* also Divinagracia Agro-Commercial,Inc. vs. CA, *supra.*
35. See concurring opinion of Justice Teehankee, Divinagracia Agro-Commercial, Inc. vs. CA, *supra.*
36. Article 539, second paragraph, provides: "A possessor deprived of his possession through forcible entry may within ten days from the filing of the complaint present a motion to secure from the competent court, in the action for forcible entry, a writ of preliminary mandatory injunction to restore him in his possession. The court shall decide the motion within thirty (30)days from the filing thereof."
37. Laureano vs. Adil, 72 SCRA 148.

Roy M. Rafols

"DEVALUATION": Some Legal Questions

On October 6, 1983 the peso's rate of exchange as against the U. S. dollar declined to an all-time low of ₱14.00 to $1.00 from a previous P11.0015 to $1.00 or a 27.26% drop. Such lowering of the peso's value has given rise to some legal questions, particularly on its possible repercussions on existing contractual obligations contracted prior to October 6, 1983. Specifically, the question arises whether the provisions of Article 1250 of the New Civil Code will apply. Article 1250 reads:

> "Art. 1250. In case an extraordinary inflation or deflation of the currency stipulated should supervene, the value of the currency at the time of the establishment of the obligation shall be the basis of payment, unless there is an agreement to the contrary."

To determine whether Article 1250 applies or not, one must first grasp the meaning and significance of the peso's decline in value as against the U. S. dollar. Some have termed such decline as "devaluation", others as "de facto devaluation", and still others, like Gov. Singson of the Central Bank, as merely "an adjustment in the peso exchange rate." (Business Day, October 6, 1983). Are the terms different or do they refer to the same thing? Or is the Central Bank merely "playing with semantics"?

When one talks of devaluation one refers to a negative or downward change in the par value of a currency. A change in the exchange rate of a currency, on the other hand, refers to a change in the price of a currency in relation to another currency. Our Supreme Court, in the case of **Gonzalo L. Manuel & Co., Inc. vs. Central Bank** (38 SCRA 533), speaking through Justice Makalintal, explained thus:

> "Par value ' and 'rate of exchange' are not necessarily synonimous. The first, variously termed 'legal exchange rate' or 'par of exchange', is 'the official rate of exchange, established by a government, in contrast to the free market rate.' It signifies 'the amount it takes one currency (for example, based on gold) to buy a unit in another currency (also based on gold) that is, how many pieces of one unit (or their gold content) are necessary to equal the gold content of another. . . *"The par value of a currency is the value as officially defined in terms of gold* or, under the silver standard, where there was such a standard, in terms of silver. The "par of excellence" therefore applies