French Civil Code

BOOK III. Of The Different Modes Of Acquiring Property.

TITLE VIII.

OF THE CONTRACT OF HIRING.

Decreed the 7th of March, 1804. Promulgated the 17th of the same Month.

CHAPTER I.

General Regulations.

1708. There are two kinds of contracts of hiring: That of things, And that of work.

1709. The hiring of things is a contract by which one of the parties binds himself to give up to another the enjoyment of a thing during a certain time, and for a certain price, which the latter binds himself to pay him.

1710. The hiring of work is a contract by which one of the parties engages to do something for another for a price agreed upon between them.

1711. These two kinds of hiring are again subdivided into several particular species: *Lease* is the name given to the hiring of houses, and that of moveables; *Farming-lease* to that of rural heritages; *Hire,* the hiring of labor or of service; *Hiring in cheptel,* to that of animals of which the advantage is distributed between the proprietor and him to whom they are intrusted. *Proposal, estimate, and contract* for the undertaking of a work at a determined price, are also a hiring, when the material is furnished by the party for whom the work is done. The three last species have particular rules.

1712. Leases of national property, of that of communes, and public establishments, are subject to particular rules.

CHAPTER II.

Of the Hiring of Things.

1713. All descriptions of property moveable and immoveable may be hired.

SECTION I.

Of the Rules common to Leases of Houses and rural Property.

1714. Hiring may take place either verbally or by writing.

1715. If the lease made without writing have not yet received any execution, and if one of the parties deny it, proof cannot be received by witnesses, however moderate the price thereof may be, and though it be alleged that earnest has been given.

The oath can only be tendered to him who denies the lease.

1716. Where there shall be a dispute touching the price of a verbal lease, of which the execution has begun, and no acquittance shall exist, the proprietor shall be believed therein upon his oath, unless the hirer shall rather prefer to demand an estimate by competent persons; in which case the charges of the view remain at his cost, if the estimate exceed the price which he has declared.

1717. The lessee has the right to underlet, or even to assign his lease to another, if such

power have not been restricted. He may be restricted as respects the whole or part. This article is always peremptory.

1718. The articles of the title "Of the Contract of Marriage and of the respective Rights of Married Persons," relative to leases of the property of married women, are applicable to leases of the property of minors.

1719. The lessor is bound by the nature of the contract, and without the necessity of any particular stipulation, 1st. To deliver to the hirer the thing hired; 2d. To maintain such thing in a state to be employed for the use for which it was hired; 3d. To put the hirer in peaceable possession thereof during the continuance of his lease.

1720. The lessor is bound to deliver the thing in a good state of complete repair.

1721. Warranty is due to the lessee against all faults or defects of the thing hired, which may impede the use thereof, even though tbe lessor should not have known them at the time of the lease. If from such faults or defects any loss result to the hirer, the lessor is bound to indemnify him.

1722. If, during the continuance of the lease, the thing hired is destroyed in entirety by fortuitous events, the lease is rescinded absolutely; if it be only in part destroyed, the lessee may, according to circumstances, demand either a diminution of the price, or the rescinding of the lease itself. In neither case is there any ground for indemnification.

1723. The lessor cannot, during the continuance of the lease, change the form of the thing hired.

1724. If, during the lease, the thing hired have urgent need of reparations, such as cannot be deferred to the end thereof, the lessee must sustain them whatever inconvenience they may cause him, and though he should be deprived, while they are going on, of one part of the thing hired. But if such reparations endure more than forty days, the price of the lease shall be diminished in proportion to the time and to the part of the thing hired of which he shall have been deprived. If the reparations are of such a nature that they render that uninhabitable which is necessary for the lodging of the lessee and his family, the latter may cause the lease to be rescinded.

1725. The lessor is not bound to warrant the lessee, against molestation which third persons may cause him by acts committed against his enjoyment, without moreover setting up any claim against the thing hired; saving to the lessee a prosecution under his own name.

1726. If, on the contrary, the hirer or the farmer have been disturbed in their enjoyment in consequence of an action concerning the ownership of the estate, they are entitled to a proportionate diminution of the price of the lease or farming-lease, provided that such molestation and impediments have been announced to the proprietor.

1727. If those who have committed such acts pretend to have any claim to the thing hired, or if the lessee is himself cited in court in order to see himself condemned to an abandonment of the whole or of part of such thing, or to submit to the exercise of any servitude, he must summon the lessor on his warranty, and must be put out of the suit, if he require it, on naming the lessor, in whose right he possesses.

1728. The lessee is subject to two principal obligations: 1st. To use the thing hired in a careful manner, and according to the destination which was given to it by the lease, or according to that which may be presumed from circumstances, in default of agreement: 2d. To pay the price of the lease in the terms agreed upon.

1729. If the lessee employ the thing hired for another purpose than that to which it has

been destined, or from which may result a damage to the lessor, the latter may, according to circumstances, cause the lease to be rescinded.

1730. If there have been a plan of the premises between the lessor and the hirer, the latter must restore the object such as he received it, excepting what has perished, or become deteriorated by antiquity or superior force.

1731. If a statement of places have not been made, the lessee is presumed to have received them in a good condition as to tenant's repairs, and must restore them such, saving contrary proof.

1732. He is responsible for deteriorations or losses which happen during his enjoyment, unless he can prove that they occurred without his fault.

1733. He is answerable in case of fire, unless he can prove that the fire happened by accident or superior force, or by faulty construction; Or that the fire was communicated from a neighbouring house.

1734. If there be several hirers, all are jointly and severally responsible for fire, unless they can prove that the fire began in the house of one of them; in which case the latter alone is bound therein; Or unless some of them can prove that the fire did not commence in their lodging, in which case the latter are not bound therein.

1735. The lessor is bound for deteriorations and losses which happen by the act of the persons of his house or of his sub-tenants.

1736. If the lease were made without writing, one of the parties cannot give discharge to the other without observing the intervals fixed by the usage of the places.

1737. The lease ceases absolutely at the expiration of the term fixed, where it has been made in writing, without its being necessary to give discharge.

1738. If at the expiration of written leases, the lessee remains and is left in possession, a new lease is effected, the operation of which is regulated by the article relative to hirings made without writing.

1739. Where there has been a discharge signified, the lessee, though he has continued his enjoyment, cannot insist upon a tacit rehiring.

1740. In the case of the two preceding articles, security given for the lease does not extend to obligations resulting from the prolongation.

1741. The contract for hiring is dissolved by the loss of the thing hired, and by the respective default of the lessor and lessee, in fulfilling their engagements.

1742. The contract for hiring is not dissolved by the death of the lessor, nor by that of the lessee.

1743. If the lessor sell the thing hired, the purchaser cannot expel the farmer or the lessee who has an authentic lease or one of which the date is certain, unless such right be reserved by the contract of lease.

1744. If it has been agreed, at the time of the lease, that in case of sale the purchaser may eject the farmer or birer, and no stipulation have been made touching damages, the lessor is bound to indemnify the farmer or the lessee in the following manner.

1745. If the question be touching a house, apartment, or shop, the lessor pays under the head of damages, to the hirer evicted, a sum equal to the price of the rent, during the time which, according to the usage of the place, is allowed between discharge and quitting.

1746. If rural property be in question, the indemnity which the lessor must pay to the

farmer, is of a third of the price of the lease for the whole time which has to run.

1747. The indemnity shall be regulated by competent persons, if the question relate to manufactures, machinery, or other establishments which require great advances.

1748. The purchaser who desires to make use of the power reserved by the lease, of ejecting the farmer or lessee in case of sale, is moreover bound to give the lessee the previous notice usual in the place for discharges. He must also advertise the farmer of rural property, at least a year in advance.

1749. Farmers or lessees cannot be ejected unless they be paid by the bailor, or on his default, by the new purchaser, the damages above explained.

1750. If the lease have not been made by authentic act, or have not a certain date, the purchaser is not subject to any costs.

1751. The purchaser with covenant of redemption can-not make use of his power of ejecting the tenant until, by the expiration of the delay fixed for repurchase, he become unchangeable proprietor.

SECTION II.

Of particular Rules and Leases.

1752. The lessee who does not furnish the house with sufficient moveables, may be expelled, unless he give securities capable of answering for the rent.

1753. The under-lessee is not bound towards the proprietor, except to the amount of the price of his under-lease in which he may be debtor at the moment of his occupation, and without his being able to object payments made in anticipation. Payments made by the under lessee, whether by virtue of a stipulation contained in his lease, or in consequence of the usage of places, are not deemed to be made by anticipation.

1754. Tenant's repairs or ordinary reparations in which the lessee is bound, if there be no article to the contrary, are those marked out as such by the usage of places, and among others the reparations to be made are, To hearths, chimney-backs, jambs, and chimney-pieces;

To the plastering of the bottom of the walls of apartments and other places of habitation, to the height of a meter; To the pavement and windows of chambers, when some of them only are broken; To glass, unless it be broken by hail, or other extraordinary accidents, or arising from superior force, for which the tenant shall not be bound; To doors, casements, bars or shutters of shops, hinges, window-bolts, and locks.

1755. None of the reparations deemed to belong to tenants are chargeable on lessees, when they are only occasioned by antiquity or superior force.

1756. The cleansing of wells and houses of office are at the charge of the lessor, if there be no clause to the contrary.

1757. A lease of furniture supplied for the purpose of fitting up an entire house, an entire set of lodgings, a shop, or any other apartments, is deemed to be made for the ordinary duration of the leases of houses, Sets of apartments, shops or other apartments, according to the usage of places.

1758. The lease of a furnished apartment is taken to have been made for a year, when it has been made at so much a year; By the month, when it has been made at so much a month; By the day, if it have been made at so much a day. If there be nothing to show that the lease was made at so much a year, a month, or day, the hiring is deemed to

have been made according to the custom of the place.

1759. If the party hiring a house or an apartment continue his enjoyment after an expiration of the lease in writing, without opposition on the part of the lessor, he shall be taken to occupy them on the same conditions, for the term fixed by the usage of the places, and shall not be at liberty to quit nor liable to be ejected therefrom, until after a discharge given according to the interval fixed by the usage of the places.

1760. In case of rescinding by the fault of the hirer, the latter is bound to pay the price of the lease during the time necessary to reletting, without prejudice to the damages which may result from the wrong.

1761. The lessor cannot dissolve the hiring, although he declare his desire to occupy by himself the house hired, if there have been no agreement to the contrary.

1762. If it have been agreed, in the contract of hiring, that the lessor may come and occupy his house, he is bound to signify beforehand a discharge at the periods determined on by the usage of the places.

SECTION III.

Of the Rules peculiar to Farming Leases.

1763. The party who cultivates, under condition of a partition of fruits with the lessor, can neither under-let nor assign, if such power have not been expressly granted to him by the lease.

1764. In case of infringement, the proprietor has a right to re-enter into enjoyment, and the lessee is condemned in damages resulting from the non-performance of the lease.

1765. If, in a farming lease, an extent is given to an estate exceeding more or less that which it really has, there is no ground for augmentation or diminution of the price for the farmer, except in the cases and according to the rules expressed under the title "Of Sales."

1766. If the lessee of a rural heritage do not stock it with cattle and implements necessary for its cultivation; if he abandon its culture; if he do not cultivate it in a husbandlike manner; if he employ the thing hired to another use than that for which it was destined; or if he do not generally execute the articles of the lease, and damage thereby result to the lessor, the latter may, according to circumstances, cause the lease to be rescinded. In case of rescinding proceeding from the act of the lessee, the latter is bound for damages, as has been mentioned in article 1764.

1767. Every hirer of rural property is bound to lay up his corn in the places destined for this purpose, according to the lease.

1768. The lessor of rural property is bound, under pain of all expenses and damages, to advertise the proprietor of encroachments which may be committed on his estate. Such notice must be given within the same interval as that which is regulated in case of summons, according to the distance of places.

1769. If the lease is made for several years, and if, during the continuance of the lease, the whole or a moiety of one crop at least be carried away by fortuitous events, the farmer may demand a remission of the price of his hiring, unless he be indemnified by preceding harvests. If he be not indemnified, the estimate of the remission can only take place at the end of the lease, at which period a balance shall be made of all the years of enjoyment; But the judge may nevertheless, relieve the lessee provisionally from the payment of a part of the price, by reason of loss sustained.

1770. If the lease be only for one year, and the loss be of the whole of the fruits, or at

least of a moiety, the lessee shall be discharged from a proportional part of the price of the hiring.

He cannot claim any remission if the loss be less than a half.

1771. The farmer cannot obtain remission, when the loss of the fruits occurs after they are severed from the soil, unless the lease give to the proprietor a proportional part of the fruits in kind ; in which case the proprietor must sustain his part of the loss, provided the lessor have been guilty of no delay in delivering him his portion of the crop. Neither is the farmer entitled to remission, when the cause of the damage was in existence, and known at the period at which the lease was made.

1772. The hirer may he charged with accidents by express stipulation.

1773. Such stipulation is only understood of ordinary accidents, such as hail, lightning, frost, or dropping of grapes. It does not extend to extraordinary accidents, such as the ravages of war, or an inundation, to which the country is not ordinarily subject, unless the lessee has been charged with all accidents fore-seen or not foreseen.

1774. A lease, without writing, of a rural estate, is deemed to have been made for the time which is necessary, in order that the lessee may collect all the fruits of the heritage farmed.

Thus, the lease of a meadow, of a vineyard, and of any other estate of which the fruits are entirely collected in the course of a year, is deemed to have been made for a year. A lease of arable lands, when they are divided by courses of husbandry or seasons, is deemed to have been made for so many years as there are crops.

1775. The lease of rural heritages, although made without writing, ceases absolutely at the expiration of the time for which it is taken to have been made, according to the preceding article.

1776. If, at the expiration of rural leases in writing, the lessee remain and is suffered to remain in possession, a new lease is operated, of which the effect is regulated by article 1774.

1777. A farmer, on quitting, must leave to him who succeeds him in the cultivation, suitable buildings and other conveniences for the labors of the succeeding year; and on the other hand, the farmer entering must supply to him who quits, suitable buildings and other conveniences for the consumption of the fodder, and for the crops remaining to be gathered. In both cases, the usage of the places must be conformed to.

1778. The farmer, on quitting, must also leave straw and feed-corn for the year, if he received them at the time of his entry upon possession; and even though he should not have received them, the proprietor may retain them according to estimate.

CHAPTER III.

Of the hiring of Labor and Industry.

1779. There are three principal species of hiring of labor and industry:

1st. The hiring of workmen who engage themselves in the service of any one;

2d. That of carriers, as well by land as by water, who are charged with the conveyance of person. or commodities;

3d. That of persons who undertake work. by estimate or by contract.

SECTION I.

Of the hiring of Domestics, and Artificers.

1780. Services can only be engaged for a term, or for a determinate undertaking.

1781. The master is believed on his affirmation—
For the proportion of wages;
For the payment of the salary for the year elapsed;
And for sums paid on account for the current year.

SECTION II.

Of Carriers by Land and by Water.

1782. Carriers by laud and by water are subjected, for the protection and preservation of the articles which are confided to them, to the same obligations as innkeepers, of which mention is made under the title "Of Deposit and Sequestration."

1783. They are answerable not only for what they have already received within their vessel or carriage, but also for what has been delivered at the wharf or warehouse, in order to be placed in their vessel or carriage.

1784. They are responsible for the loss and average of things intrusted to them, unless they can prove that they have been lost and damaged by fortuitous circumstances, or superior force.

1785. Those who undertake public conveyances by land and by water, and also public wagons, must keep a register of money, of goods and packages, of which they have the charge.

1786. The managers and directors of carriages and public wagons, the masters of barges and boats, are moreover, subjected to particular regulations, which form the law between them and other citizens.

SECTION III.

Of Estimates and Works by Contract.

1787. When a party is charged with the performance of a work, it may be agreed that he shall supply only his labor or skill, or further, that he shall also supply materials.

1788. If, in the case in which the workman furnishes the material, the thing happens to perish, in whatsoever manner it may be, before being delivered, the loss thereof falls on the workman, unless the master be guilty of negligence in not receiving the thing.

1789. In the case in which the workman supplies only his labor or his skill, if the thing happen to perish, the workman is only bound for his own misconduct.

1790. If, in the case of the preceding article, the thing happens to perish, though without any fault on the part of the workman, before the work has been received, and without the master having been guilty of delay in showing it, the workman has no wages to claim, unless the thing have perished by the fault of the material.

1791. If the question respect work in several parts, or by measure, the proof thereof may be made in parts; it is deemed to have been made for all tbe parties paid, if the master pay the workman in proportion to the work done.

1792. If the edifice, built at a set price, perish in whole or in part by defect in its construction, even by defect in the foundation, the architect and the contractor are responsible therefor for ten years.

1793. When an architect or contractor has undertaken to erect a building upon a penalty, after a plan settled and agreed with the proprietor of the soil, be cannot demand any augmentation of price, neither under pretext of augmentation of the value of labor, or of materials, nor under that of alteration. or enlargements of such plan, if such alterations or enlargements have not been authorized in writing, and the price agreed

with the proprietor.

1794. The master may rescind by his single will the bargain with penalty, although the work be already begun on indemnifying the contractor for all his expenses, for all his labor, and for all which he might have gained in such undertaking.

1795. The contract for hiring of work is dissolved by the death of the workman, of the architect, or contractor.

1796. But the proprietor is bound to pay according to the price contained in the agreement, to their succession, the value of work done and that of materials prepared, at the time only when such labors and such materials may be of service to him.

1797. The contractor is responsible for the act of the persons he employs.

1798. Masons, carpenters, and other workmen, who have been employed in the construction of a building, or of other works done by contract, have no action against the party for whom such work has been done, except to the amount in which he is found to be debtor towards the contractor, at the moment at which their action is brought.

1799. Masons, carpenters, locksmiths, and other workmen, who directly make bargains at fixed prices, are bound by the rules prescribed in the present section: they are contractors in the calling in which they deal.

CHAPTER IV.

Of Lease in Cheptel

SECTION I.

General Regulations.

1800. A lease in *cheptel* is a contract by which one of the parties gives to the other a stock of cattle to keep, feed, and take care of, on the conditions agreed between them.

1801. There are several sorts of cheptels:
Simple or ordinary cheptel.
Cheptel by moiety.
Cheptel allowed to a farmer or other cultivator.
There is, besides, a fourth species of contract improperly called *cheptel.*

1802. Every species of animal may be given in cheptel which is susceptible of increase and profit in agriculture or commerce.

1803. In default of particular agreements, such contracts are regulated by the principles which follow.

SECTION II.

Of simple Cheptel.

1804. A lease in cheptel is a contract by which one party gives to another beasts to keep, to feed, and to take care of, on condition that the lessee shall enjoy the benefit of half the increase, and that he shall sustain also half the loss.

1805. An estimated value given in the lease in cheptel does not transfer the property to the lessee; it has no other object than to ascertain the loss or gain which may be found at the expiration of the lease.

1806. The lessee must employ all the care of a good manager in the preservation of the cheptel.

1807. He is not bound as to a fortuitous occurrence, except when it has been preceded by some fault on his part, without which the loss would not have happened.

1808. In case of dispute, the lessee is bound to prove the accident, and the lessor is bound to prove the fault which he imputes to the lessee.

1809. The lessee who is discharged as to the accident, is always bound to render an account of the skins of the beasts.

1810. If the cheptel perish entirely without the fault of the lessee, the loss thereof falls on the lessor. If it only perish in part, the loss is sustained in common, according to the price of the original estimate, and that of the estimate at the expiration of the cheptel.

1811. Parties cannot stipulate, That the lessee shall sustain the total loss of the cheptel, although happening by accident and without his fault; Or that he shall sustain, in the loss, a larger proportion than in the gain; Or that the lessor shall take by preference, at the end of the lease, something more than the cheptel which he has supplied. Every similar agreement is void. The lessee alone has the benefit of the milk, of the dung, and of the labor of the animals given in cheptel. The wool and the increase are divided.

1812. The lessee cannot dispose of any beast of the flock, whether of the stock or of the young, without the consent of the lessor, who cannot himself dispose thereof without the consent of the lessee.

1813. When the cheptel is given to the farmer of another's estate, it most be notified to the proprietor of whom such farmer holds; without which be may seize it, and cause it to be sold for what such farmer owes him.

1814. The lessee must not shear without previously informing the lessor thereof.

1815. If there be no time fixed by the agreement for the duration of the cheptel, it is taken to have been made for three years.

1816. The lessor may demand an earlier dissolution thereof, if the lessee do not fulfil his obligations.

1817. At the end of the lease, or at the time of its dissolution, a new valuation of the cheptel is to be made. The lessor may previously select beasts of each species, to the amount of the original valuation; the excess is divided. If a sufficient number of beasts does not exist to complete the first valuation, the lessor takes what remains, and the parties adjust the loss between them.

SECTION III.

Of Cheptel by Moiety.

1818. *Cheptel* by moiety is an association in which each of the contractors supplies a moiety of the cattle, which remain common for profit or for loss.

1819. The lessee alone receives the benefit as in simple *cheptel* of the milk, of the manure, and of the labor of the beasts. The lessor has a right only to a moiety of the young and of the wool. Every contrary agreement is void, unless the lessor be proprietor of the farm of which the lessee is farmer, or partial cultivator.

1820. All the other rules of simple *cheptel* apply to cheptel by moiety.

SECTION IV.

Of cheptel given by the Proprietor to his Farmer or Joint-Cultivator.

§ I. Of Cheptel given to the Farmer.

1821. This *cheptel* (called also *cheptel de fer*) is that by which the proprietor of a farm gives it to farm, on condition that at the expiration of the lease, the farmer shall leave cattle of a value equal to the price of the estimate of those which he shall have received.

1822. The valuation of the *cheptel* given to the farmer does not transfer to him the property; but nevertheless places it at his risk.

1823. All the profits belong to the farmer during the continuance of his lease, if there be no agreement to the contrary.

1824. In cheptels given to the farmer, the dung is not among the personal profits of lessees, but belongs to the farm, in the cultivation of which it must be entirely employed.

1825. The loss, even total and by accident, falls entirely on the farmer, if there be no contrary agreement.

1826. At the end of the lease, the farmer cannot retain the cheptel by paying the original valuation thereof; he must leave one of value equal to that which he has received. If there be a deficiency he must pay it; and it is the excess only which belongs to him.

§ II. Of Cheptel given to the Joint-Cultivator.

1827. If the cheptel perish entirely without the fault of the husbandman, the loss falls on the lessor.

1828. The party may stipulate that the husbandman shall give up to the lessor his share of the fleece at a price inferior to the ordinary value; That the lessor shall have a larger part of the profit; That he shall have a moiety of the milk: But a stipulation cannot be made that the husbandman shall be bound by the whole loss.

1829. This *cheptel* ceases with the lease of the farm.

1830. It is besides subjected to all the rules of simple *cheptel.*

SECTION V.

***Of the Contract improperly called* Cheptel.**

1831. When one or more cows are given to be housed and fed, the lessor preserves the property therein; he has only the profit of the calves produced by them.