

20- Do the five rules of prescription were applicable to the claims of the land lords for the uncollected moneys from the their tenant the government because the said monies had not been collected or remained unasked for all the prescriptive period mentioned at the time it had been overdue and been registered in the registry of Ministry of Finance as a deposited trust under collection on demand of claimants?

Finding:

The five years rules of prescription do not apply to the claims of the land lords whose rental earnings for the tenancy period from the government have not been claimed as overdue rent entitlements after such payment orders have been registered in the Ministry of Finance and are deposited as trust to be collected on demand.

As a general rule, the legislator has decided that all claims for personal rights shall not be called for after the expiration of fifteen continuous and in interrupted years by virtue of the operation of the rule of prescription, except in so far as another law a different period. In addition to what is mentioned, the situations that were stated in the Articles that ensue Article No., (403), of the Civil Law most important among is the suit for the claim of a recurrent nature such as the rents for residential buildings, agricultural lands, for which the legislator has prescribed five years only as prescriptive period to start from the date of accrual. The legislator also decided that the prescription period comes to an end and the claimant shall be stopped and denied to be entitled to furnish a suit if the claimant confirms explicitly or illicitly that he is indebted to the debtor.

In application to the above rules of law, and as it is proved from the documents filed with this petition for the advisory opinion it is evident that the Ministry of Finance issues regularly money orders for the payment of the rents which were due to the landlords every six months, and when these orders are delivered to them the general accounting department in the Ministry of Finance registers the rent amounts to be paid as deposits for their claimants. Therefore, the nature of the money deposited changes immediately from rent value into entrusted cash money in demand. It turns immediately its nature from a mere claim to rental outstanding dues into a trust responsibility being an ordinary debt illegible for payment on demand. No estoppels on grounds of prescription if the money is claimed by the debtor before the lapse of fifteen continuous years. Such period starts as from the date of issuing the payment order.

Accordingly the five years rule for prescription does not apply to the claims of the landlords regarding the amounts of money mentioned previously. In addition, the Ministry of Finance being the trustee and debtor at the same time had never disclaimed its indebtedness liability in any time, before or meanwhile which is considered to be a tacit admission of such liability. That breaks apart the claim for the five years prescription period.