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Civil Code and Related Legislation: Prescription

Joseph Dainow

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mortgage. This change is included in both new paragraphs (paragraph B for livestock; paragraph A for other property).

PRESCRIPTION

*Joseph Dainow**

LIBERATIVE PRESCRIPTION

For some reason, there appears to be a movement in the direction of defining and limiting liability in building construction. Act 183 of 1958, as amended by Act 84 of 1960,¹ provided that (1) a contractor would not be liable for destruction, deterioration or defects which were due to any fault or insufficiency of the plans or specifications made by somebody else, and (2) the contractor cannot waive this exculpation.

Now, Act 189 of 1964² provides a series of different "pre-emptive periods" for actions involving deficiencies in design, planning, inspection, supervision, or construction of improvements to immovable property, whether the action is brought by the owner or by any other person. Although the stipulated period of ten years is the same as that applicable under the Civil Code,³ the statute spells out the kinds of actions covered (including property damage and personal injury) and fixes the starting point for the counting of time in various situations. The use of the phrase "pre-emptive periods" (instead of "liberative prescription") is probably intended to mean an absolute extinction of the cause of action by the calendar lapse of time, thereby excluding any possibilities of suspension, interruption, or renunciation which apply in ordinary prescriptions.

ACQUISITIVE PRESCRIPTION

Act 408 of 1964 added a new section to the Revised Statutes⁴ which provides that acquisitive prescription (Civil Code article 3458) shall not run against any levee district or against the Board of Commissioners of any levee district.

*Professor of Law, Louisiana State University.

1. LA. R.S. 9:2771 (1960).

2. LA. R.S. 9:2772 (Supp. 1964).

3. LA. CIVIL CODE art. 3544 (1870); *cf. id.* art. 3545.

4. LA. R.S. 38:295 (Supp. 1964), by redesignation under authority of *id.* 24:253 although enacted as *id.* 38:293.