

## C670419 : MAJOR LAWS

KEY WORD: **RIGHT / RETENTION**

**PEERAPON VIGIT : RIGHT OF RETENTION. THESIS ADVISOR :  
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The purpose of this research is to analyse the provisions, aspects and effect of the law relating to the right of retention stipulated in the Civil and Commercial Code and problems related thereto including guidelines for solving such problems. The result of this research finds that the right of retention is a special right of creditors which is created by virtue of law in the case whereby the creditor has possessed the property belonging to another and has an obligation in his favour relating to the property possessed. The Civil and Commercial Code stipulates the general principle of the right of retention in Book II Obligation, Title I General Provisions, Chapter II Effect of the Obligations, Part V Right of Retention, Sections 241-250. Moreover, there are provisions in Book III concerning Specific Contracts granting right of retention to certain criteria of creditors to retain the property until the obligation is performed e.g. Sections 452, 468, 630, 670, 679, 772, and 819, etc. However, such provisions are ambiguous i.e. the extent of the right of retention for which the person entitled to such right can claim against the third party. Also, the provisions concerning the enforcement of the indebtedness through the retained property which requires the creditor to proceed his claim in court and to request for the enforcement of such right as an unsecured creditor, create the inconvenience to creditor. Therefore, it is imperative that the law should be amended to be more suitable and practicable.

This research suggests guidelines to solve the problems incurred. One suggestion is to propose to interpret the law regarding right of retention in a more beneficial manner to creditor. With respect to the inconvenience of the creditor in the enforcement of the property retained, this research proposes that the existing law should be amended to entitle the creditor to immediately sell the retained property by auction.

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