

A Comparative Study on Some Basic Problems of the Law of Assignment of Claims

Fang-Hsien Yang^{*}

Abstract

This paper conducts a comparative law study on some basic problems of the law of assignment of claims. It is divided into four parts. Section one briefly describes the development of assignment of claims. In section two, I discuss some problems of assignment of claims under Taiwanese Civil Code, including notice to the debtor under paragraph 297 and possible defenses and rights to set-off of debtors according to paragraph 299 after creditor assigned claims to assignee. Section three then considers various meanings of future claims and discusses some important problems, such as when claims will be transferred to assignor, when assignor can make a notice to debtor that claims are assigned, whether the beginning of a procedure of enforcement or bankruptcy procedure against assignor will be detrimental to the rights of assignee, and which one of the assignors has priority when there are successive assignments of the same claims etc. Section four summarizes the main points of this paper.

Keywords: (future) claims, (future) claims or accounts receivable, assignment of a (future) claims or accounts receivable, assignor, assignee, debtor, notice to the debtor, perform or fulfill, debtor's defenses or rights to set-off, procedure of enforcement or Bankruptcy, priority, successive assignments

^{*} Professor of Law, College of Law, National Chengchi University.
Email: fhyang@nccu.edu.tw