

Vendor's Lien and Purchaser's Lien in the Contract of Sale

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Abstract

There are vendors' liens and purchasers' liens in American law, while there are only vendors' liens in Japanese law. In view of efficiency and equity, Taiwan should add provisions concerning vendors' liens and purchasers' liens. There is no close relationship between "acknowledgement of vendors' liens and purchasers' liens" and "the doctrine of autonomy of the parties regarding property transfer." As to vendors' liens, the augmented provision about "compensable person's lien because of the partition of real estate" in Civil Code has the same policy basis; as to purchasers' liens, there are relevant provisions in the two bills regulating real estate transactions, and purchasers' liens contribute to solve the problem of "a thing sold twice" more properly.

On the condition of the safety of the transactions, vendors' liens and purchasers' liens shall have priority over mortgages, but shall be postponed to mechanics' liens. When mortgagees are *bona fide*, vendors' liens and purchasers' liens shall be postponed to mortgages.

Keywords: vendor's lien, purchaser's lien, lien, privilege, priority, the doctrine of autonomy of the parties, the safety of the transactions

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