

doing, the dissolution of the sale is pronounced by a second judgment.

Domat, *loc. cit.* no. 8.—Pothier, *Vente*, 475.

60. If it be stipulated in the sale of immoveables that, in default of payment of the price within a term agreed upon, the sale shall be dissolved of right, the buyer may nevertheless pay after the expiration of the term at any time before the rendering of final judgment of dissolution.

Pothier, *vente*, 459.

(The Commissioners suggest the adoption of the provisions contained in the next three following articles, as amendment to the law in force as stated in articles 58, 58a, 59 and 60.)

The seller of an immovable cannot demand the dissolution of the sale by reason of the failure of the buyer to pay the price, unless there be a special stipulation to that effect.

ff. Lib. 18, tit. 3, de lege. com.—Cod. L. 8, *de contr. empt. et vend.*; L. 1; L. 3, *de pactis in. emp. et vend.*—Pothier, *Vente*, no. 458.—1 Despeisses, p. 48, no. 19.—2 Troplong, *Vente*, no. 621, p. 96.

The stipulation and right of dissolution of the sale of an immovable, by reason of non-payment of the price, are subject to the rules relating to the right of redemption contained in articles 63a, 64a, 64b, 64c, 64d and 65 of this title.

The right can in no case be exercised after the expiration of ten years from the time of sale.

Loyseau, *Déguerpissement*, liv. 6, ch. 3, no. 90.—2 Troplong, *Vente*, no. 651.—2 Troplong, *Hypothèques*, no. 466, p. 160.

The judgment of dissolution by reason of non-payment of the price is pronounced at once, without any delay being granted by it for the payment of the price; nevertheless the buyer may pay the price with interest and costs of suit at any time before the rendering of the judgment.

Pothier, *Vente*, no. 459, 3 *al.*; no. 461, 2 *al.*

60a. The seller cannot have possession of the thing sold, upon the dissolution of the sale by reason of non-payment of the price, until he has repaid to the buyer such part of the price as he has received, with the costs of all necessary repairs, and of such improvements as have increased the value of the thing, to the amount of such increased value. If these improvements be of a nature to be removed, he has the option of permitting the buyer to remove them.

Pothier, *Vente*, nos. 469, 470.

60b. The buyer is obliged to restore the thing with the fruits and profits received by him, or such portion thereof as corresponds with the part of the price remaining unpaid.

He is also answerable to the seller for the deteriorations of the property which have been caused by his fault.

Pothier, *Vente*, nos. 465, 466, 468.

60c. The seller is held to have abandoned his right to recover the price when he has brought an action for the dissolution of the sale by reason of the non-payment of it.

ff. L. 4, § 2, de leg. com.—Pothier, *Vente*, no. 461.—1 Despeisses, p. 73.

(The following article is suggested as declaring the law on a doubtful point.)

60d. A demand of the price by action or other legal proceeding does not deprive the seller of his right to obtain the dissolution of the sale by reason of non-payment.

1 Tropl. *Priv. et Hyp.*, no. 224 bis.—1 Duvergier, no. 444 *et seq.*—Merlin, *Quest.*, vo. *Option*, § 1, no. 10.—*Rep. vo. Résolution*.—16 Duranton, no. 239.—*Contra*, *ff. L. 7. dic. tit.*—1 Despeisses, p. 73, nos. 3, 4.—Pothier, *Vente*, no. 462.