

EQUIPMENT LEASING IN MALAYSIA
A NEW LEGAL MACHINERY

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PREFACE.

The writer's aim in writing this project paper is to study the application of leasing transaction in commercial industry. Equipment leasing is a new area of law whereby it was introduced in Malaysia in the late 1970's. Until then this type of transaction became more and more popular among businessmen especially, due to the fact that it enabled them to lease expensive equipment without buying. In doing this comparison has to be made with other transactions especially Hire-Purchase transaction. Moreover the position of the lessee who has been declared bankrupt will be also discussed, to determine the status of the goods.

Research for this project paper was conducted at several libraries namely Perputakaan Tun Abdul Razak at Mara Institute of Technology, Messrs Skrine & Co library at 3rd floor, Straits Trading Building, No: 4 Leboh Pasar Besar, Kuala Lumpur and at the University of Malaya Library.

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A. INTRODUCTION

i. Purpose Of The Study

Equipment leasing is one form of bailment. It has been recognised for centuries that bailor and bailee owe each other defined duties. Indeed, such duties may have been entered at common law before contractual undertakings were recognised as enforceable. In Possession in the Common Law (1888), Pollock and Wright define bailment as :-

"... any person is to be considered as a bailee who otherwise than as a servant either receives possession of a thing from another or consents to receive or hold possession of a thing for another upon an undertaking with the other person either to keep and return or deliver to him any specific thing or to (convey and) apply the specific thing according to the directions antecedent or future of the other person".

Equipment leasing, which is a form of hire of goods, possession of the thing is given to the bailee for a fixed terminable or ascertainable form in exchange for the payment of rent. At the end of the term, the bailor's right of possession revives and if the bailee