LAW NO. 10/2011
of 14 September

APPROVES THE CIVIL CODE

A Civil Code is of fundamental importance to the legal system of any civil law country; more than a compilation of statutes, it is an ordered set of provisions that follows a systematized selection of matters regulating to legal relations among private legal entities, be they individuals or corporate bodies.

The Civil Code hereby approved is a modern statute, and the solutions brought by it are considered to be in line with the Timorese reality and in conformity with the general principles of law and the international norms enshrined in the Constitution and which constitute founding principles of a Democratic State based on the rule of law.

The present Code is now one of the main instruments of the legal system in Timor-Leste which, as mentioned earlier, will enable the regulation of the legal relations among private legal entities.

The approval of the Civil Code therefore constitutes a benchmark of extraordinary importance to the entire society insofar as the future of private legal relations and the construction of the national legal system are concerned.

Thus, pursuant to article 95.1 of the Constitution of the Republic, the National Parliament enacts the following to have the force of law:

CHAPTER I
GENERAL PRINCIPLES

Article 1
Approval of the Civil Code

The Civil Code published in annex, which forms an integral part of this statute, is hereby approved.

CHAPTER II
TRANSITIONAL PROVISIONS

SECTION I
COMMON PROVISIONS

Article 2
Temporal scope of application

1. Application of the provisions of the new Civil Code to situations or facts occurred prior to its entry into force shall be subject to the rules laid down in its articles 11 and 12, with the amendments provided for in this chapter.

2. The new Civil Code shall not apply to actions pending before the courts as at the date of its entry into force, save as otherwise provided in the present Law.

Article 3
Real Estate

The rights over real estate shall be governed by the provisions of the new Civil Code after recognition or issuance of the first legal deeds by the Democratic Republic of Timor-Leste over such property.

Article 4
Communal property

Communal property shall refer to property that is shared by the people of a community in accordance with the uses and customs.

SECTION II
GENERAL PART

Article 5
Corporate bodies

1. The regime provided for in articles 149 to 185 of the new Civil Code on corporate bodies shall also apply to corporate bodies established prior to the entry into force of the present statute insofar as their functioning is concerned.

2. The conditions of validity of the constitutive act and respective registration of corporate bodies referred to in the preceding article shall remain as established in the law in force at the time of the establishment of the corporation.

Article 6
Suspension of prescription

Periods of prescription the running of which is suspended as at the date of the entry into force of the new Civil Code and which, by force of a provision thereof, are subject to a mere suspension of their term, shall resume their running, with the rules for suspension established in the new Civil Code being applied to them.

SECTION III
CONTRACTS LAW

Article 7
Penal clause

The provisions of articles 744 to 746 of the new Civil Code shall apply to penal clauses set forth prior to its entry into force, but the right to indemnification for the additional damage provided for in article 745.2 shall only exist where it is stipulated by the parties while the new law is in force.

Article 8
Leasing

1. Leasing agreements entered into prior to the entry into force of the new Civil Code shall be governed by the leasing regime now established therein, with the amendments provided for in the following paragraph.

2. The provisions of the preceding paragraph shall not prejudice the validity of the agreements, nor that of its clauses, provided they are contained in a title deed considered to be sufficient as at the date they were entered into or have been validated by a subsequent legal provision.

Article 9
Interests

Interests established by agreement or contract entered into prior to the entry into force of the new Civil Code shall be governed by the law that was in force at the time they were stipulated.

SECTION IV
FAMILY LAW

Article 10
Catholic marriage

1. The law shall recognise validity and efficacy to catholic marriages celebrated prior to the entry into force of the Civil Code.

2. The marriages referred to in the preceding paragraph shall, from the date of entry into force of the Civil Code, be governed by the regime provided for therein.

Article 11
Effects of marriage

1. The legal effects of marriages entered into prior to the entry into force of the new Civil Code both insofar as people and property are concerned, shall be those established therein and not in the previous law in force, save where it involves the production of retroactive effects.

2. Previous marriages subjected by a previous law to a certain legal type of property regime, either on an imperative of supplementary basis, shall continue to be subject to such type of property regime, but the content shall be the one laid down in the new Civil Code, pursuant to the preceding paragraph.

Article 12
Establishment of parenthood

1. The provisions of the Civil Code referring to the establishment of parenthood shall apply, to the extent possible, to offspring born or conceived prior to the entry into force of the new Code, but shall not prejudice the previous cases the decisions of which have become final.

2. The provisions of the preceding paragraph shall apply to the relevant procedures underway to the extent that such a measure does not prejudice the respective normal proceduring or the guarantees of the parties.

Article 13
Exercise of paternal authority and guardianship

The amendments made by force of the new Civil Code to the rules of parental authority and to the regime of guardianship shall apply even to actions underway as at the date of entry into force of the present statute to the extent that such a measure does not prejudice the respective normal proceduring or the guarantees of the parties.

Article 14
Restrict adoption

The links of restrict adoption existing as at the date of the entry into force of the new Civil Code shall continue to be governed by the regime specifically provided for such type of adoption in the Indonesian Civil Code as complemented and modified by the provisions of the new Code that are not incompatible with their nature.

Article 15
Full adoption

Full adoptions established prior to the entry into force of the new Civil Code shall be regulated by the norms of the present statute relating to adoption.

SECTION V
SUCCESSION LAW

Article 16
Legal succession

The provisions of the new Civil Code relating to intestate and compulsory succession, as well as to the right succession representation, shall only apply to open successions after its entry into force.

CHAPTER III
FINAL PROVISIONS

Article 17
Revocatory norm

1. The Indonesian Civil Code, in force in the Timorese legal system pursuant to article 1 of Law no. 10/2003 of 7 August, is hereby revoked.

2. Law no. 12/2005 of 12 September on the Juridical Regime of Real Estate and Leasing between Individuals is hereby revoked.

3. All legal provisions contained in legal statutes prior to the entry into force of the present Law providing for solutions contrary to those adopted by the present Civil Code are hereby revoked.

Article 18
Reference to revoked norms

All references made in legal statutes prior to the entry into force of the new Civil Code to the revoked legislation identified in the preceding paragraph shall be considered as having been made to the corresponding provisions of the new Code.

Article 19
Entry into force

The present statute and the Civil Code shall enter into force on the hundredth eightieth day following its publication.

Approved on 23 August 2011.

The Speaker of the National Parliament, in substitution

Vicente da Silva Guterres

Enacted on 13 / 09 / 2011.

For publication.

The President of the Republic,

José Ramos-Horta

CIVIL CODE OF TIMOR-LESTE

CIVIL CODE
BOOK I

GENERAL PART

TITLE I
ON LAWS, THEIR INTERPRETATION AND APPLICATION

CHAPTER I
Sources of the law

ARTICLE 1
(Immediate sources)

1. Specific laws are immediate sources of the general law.
2. All generic provisions deriving from the competent state bodies are considered to be laws.

ARTICLE 2
(Judicial value of customs)
Norms and customary uses that are not contrary to the Constitution and the laws shall be juridically applicable.

ARTICLE 3
(Value of equity)
Courts may only decide based on equity when:
a) There is a legal provision that allows it;
b) There is agreement of the parties and the legal relationship is not unenforceable;
c) The parties have previously agreed in writing to resort to equity, and the legal relationship is not unenforceable.

CHAPTER II
Laws in force, their interpretation and application

ARTICLE 4
(Coming into force of a law)
1. A law becomes binding only when it is published in the official gazette.
2. Between the publication of a law and its coming into force a period of time determined by the law itself will elapse or, in case of omission, such a period will be determined by special legislation.

ARTICLE 5
(Ignorance or misinterpretation of the law)
Ignorance or misinterpretation of the law does not justify failing to comply with it nor does it exempt people from the sanctions it imposes.

ARTICLE 6
(Cessation of the law in force)
1. When it is not specifically destined to be temporarily in force, the law will only stop being in force if revoked by another law.
2. Revocation may result from an explicit declaration, from incompatibility between the new and the previous rules or from the fact that the new law regulates all the contents of the previous law.
3. The general law does not revoke the special law, unless this is the unequivocal intention of the legislator.
4. Revocation of the revocatory law does not imply the reapplication of the law that had been revoked.

ARTICLE 7

(Obligation to judge and duty to obey the law)

1. The court may not abstain from judging by invoking lack or obscurity of the law or alleging irretrievable doubt about the facts under litigation.
2. The duty to obey the law cannot be withdrawn under the pretext that the contents of the legislative rule are unfair or immoral.
3. In the judgments he gives, the judge must take into consideration all the cases deserving analogous treatment, in order to achieve uniform interpretation and application of the law.

ARTICLE 8

(Interpretation of the law)

1. Interpretation should not be confined to the letter of the law, but should instead reconstitute the legislative line of thought based on the texts, keeping in mind above all the unity of the judicial system, the circumstances in which the law was created and the specific conditions of the time when it is applied.
2. The legislative thought that does not have any verbal correspondence, even if imperfectly expressed, in the letter of the law, cannot be considered by its interpreter.
3. In determining the meaning and scope of the law, its interpreter shall presume that the legislator consecrated the most accurate solutions and was able to express his or her thinking in adequate terms.

ARTICLE 9

(Filling loopholes in the law)

1. Those cases not foreseen by the law are regulated according to the norm applied in analogous cases.
2. Analogy is present whenever in the unforeseen cases the same reasons are valid that justify the regulation of the case foreseen in the law.
3. Where there is no analogous case, the situation is solved according to the rule the interpreter himself or herself would create if he or she had to legislate in the spirit of the system.

ARTICLE 10

(Exceptional rules)

Exceptional rules do not allow analogical application, but admit extensive interpretation.

ARTICLE 11

(Application of the laws in time. General principle)

1. The law provides only for the future; even if it is given retroactive efficacy, it is assumed that the effects already produced by the facts that the law is meant to regulate are presumably excepted.
2. When the law regulates the conditions of substantial or formal validity of any facts or of their effects, it is understood that, in case of doubt, it only targets the new facts; but when it directly regulates the contents of certain legal relationships, ignoring the facts that were at its origin, the law will be assumed to cover the very relations that have already been constituted and which are still valid at the time of its coming into force.

ARTICLE 12
(Application of the law in time. Interpretative laws)
1. Interpretative law is part of the interpreted law, with exception of the effects already produced by enforcement of the obligation, through a final sentence, through settlement out of court, even if it has not been homologated, or by acts of analogous nature.
2. Discontinuance and confession that have not been homologated by the court may be revoked by the discontinuer or confessor for whom the interpretative law may be favourable.

CHAPTER III
Foreigners' rights and conflict of laws

SECTION I
General provisions

ARTICLE 13
(Foreigners' legal status)
1. Foreigners are treated as nationals as regards enjoyment of their civil rights, unless otherwise provided by law.
2. However, foreigners are not granted those rights that their respective State grants to its nationals, but does not grant to the Timorese in equal circumstances.

ARTICLE 14
(Qualifications)
The competency granted to a law only comprises the rules that, by virtue of their contents and function in that law, fall under the legal regime under consideration in the rule of conflicts.

ARTICLE 15
(Reference to foreign law. General principle)
Reference of the rules of conflicts to any foreign law determines only the application of the internal provisions of that law, in the absence of a rule to the contrary.

ARTICLE 16
(Reference to the law of a third State)
1. If, however, the private international provisions of the law referred to by the Timorese rule of conflicts refer to another legislation which is considered competent to regulate the case, the internal provisions of the latter shall apply.
2. The above does not apply if the law referred to by the Timorese rule of conflicts is the personal law and the interested party usually resides in Timorese territory or in a country whose rules of conflicts consider the internal provisions of the State of his or her nationality to be competent.
3. However, the rule in paragraph 1 only applies to cases of guardianship and trusteeship, patrimonial relations between spouses, parental authority, relations between adopter and adoptee and succession by death, if the national law indicated by the rule of conflicts refers back to the law of the location of the real estate and the latter is considered competent.

ARTICLE 17
(Reference to the Timorese law)
1. If the private international provisions of the law designated by the rule of conflicts refers back to the internal Timorese law, this is the law to be applied.
2. However, when the matter falls under the personal status law, the Timorese law shall only apply if the interested party has his or her habitual residence in Timorese territory or if the law of the country of such residence also considers competent the Timorese domestic law.

ARTICLE 18
(Cases in which reference is not admissible)
1. The latter two articles no longer apply when their application results in the invalidity or inefficacy of a legal transaction that would be valid or efficient according to the rule established in article 15, or the illegitimacy of a state that would otherwise be legitimate.
2. The matter established in the same articles no longer applies if a foreign law has been designated by the interested parties, in cases where such designation is authorized.

ARTICLE 19
(Plurilegislative judicial ordinances)
1. When, due to the nationality of a given person, the competent law is that of a State in which different local legislative systems co-exist, it is the internal law of that State that determines the applicable system in each case.
2. In the absence of interlocal law norms, one resorts to the private international law of the same State; should this not be enough, then the personal status law of the interested party is considered to be that of his or her habitual residence.
3. If the competent legislation constitutes a territorially unitary legal order, but several systems of norms for different categories of people are in force, the provisions set forth in that legislation regarding the conflict of systems is what must always be applied.

ARTICLE 20
(Law and fraud)
In applying rules of conflicts, de facto or de jure situations, created with the fraudulent aim of avoiding the applicability of the law that would otherwise be competent, are irrelevant.

ARTICLE 21
(Public order)
1. The precepts of foreign law indicated by the rule of conflicts do not apply when this application involves violation of the fundamental principles of international public order of the Timorese State.
2. In this case, the most appropriate rules of the competent foreign legislation apply, or, subsidiarily, the rules of internal Timorese law.

ARTICLE 22
(Interpretation and verification of the foreign law)
1. The foreign law is interpreted within the system it belongs to and according to the interpretative rules determined therein.
2. In case it is impossible to verify the contents of the applicable foreign law, turning to the law that is subsidiarily competent is the solution; this procedure should be adopted whenever it is not possible to determine the de facto or de jure elements that should determine the designation of the applicable law.

ARTICLE 23
(Acts carried out aboard)
1. To acts carried out aboard ships or aircraft, outside ports or aerodromes, the law of the place of the respective registry is applied, whenever the territorial law is competent.
2. Military ships and aircraft are considered part of the territory of the State they belong to.

SECTION II
Rules of conflicts

SUBSECTION I
Scope and determination of the personal law

ARTICLE 24
(Scope of the personal law)
The state of individuals, the capacity of a person, family relations and succession by death are regulated by the personal law of each person, with exception of the restrictions established in the present section.

ARTICLE 25
(Start and end of the legal personality)
1. The start and end of the legal personality are equally determined by the personal law of each individual.
2. When a given judicial effect depends on one person surviving another, and each of them is subject to a different personal law, if the assumptions of survival of those laws are incompatible, paragraph 2 of article 65 will apply.

ARTICLE 26
(Personality rights)
1. Personal law also applies to personality rights as regards their existence and coverage and the restrictions imposed upon their being exercised.
2. However, foreigners or stateless people do not enjoy any form of legal protection that is not recognized in the Timorese law.

ARTICLE 27

(Deviations regarding the consequences of incapacity)

1. A legal transaction effected in Timor-Leste by a person who is incapacitated according to the competent personal law cannot be annulled based on that incapacity when the internal Timorese law, if it were applied, considers that person to be capable.
2. This exception ceases when the other party knew of that incapacity, or when the legal transaction is unilateral, belongs to the domain of family law or of successions or concerns the disposition of real estate located abroad.
3. If the legal transaction is effected by the incapacitated person in a foreign country, the law of that country that has identical rules to those established in the previous paragraphs is to be applied.

ARTICLE 28

(Legal majority)

Change of personal law does not inhibit the majority already acquired according to the previous personal law.

ARTICLE 29

(Tutelage and analogous institutions)

The personal law of the incapacitated person applies to the tutelage and analogous institutions of protection of the incapacitated.

ARTICLE 30

(Establishment of the personal law)

1. Personal law is that of the individual's nationality.
2. However, Timor-Leste recognizes any legal transaction done in the country of the declarant's habitual residence, as long as it is done according to the law of that country and that law is considered competent.

ARTICLE 31

(Stateless people)

1. The personal status law of the stateless person is that of the place where he or she has his or her habitual residence or, in the case of being a minor or interdicted person, his or her legal domicile.
2. Paragraph 2 of article 79 shall apply in the absence of habitual residence.

ARTICLE 32
(Legal persons)
1. The personal status law of a legal person is the law of the State where the main, effective office of its management is located.
2. The personal status law shall fundamentally regulate: the legal person's capacity; the constitution, functioning and competency of its bodies; means of acquiring and losing the quality of associate and their respective rights and duties; the responsibility of the legal person, as well as that of its bodies and members, towards third parties; and the transformation, dissolution and winding up of the legal person.
3. Transferring the main office of the legal person from one State to another does not extinguish its legal personality, as long as the laws of each State are in agreement.
4. The merger of entities with a different personal status law is evaluated in view of both personal laws.

ARTICLE 33
(International legal persons)
The personal status law of international legal persons is the one designated in the convention that created them or in their respective statutes; in case none is designated, it is that of the country where the main office is located.

SUBSECTION II
Regulatory law of legal transactions

ARTICLE 34
(Business declaration)
1. The perfection, interpretation and integration of the business declaration are regulated by the law that applies to the substance of the business and is equally applicable to unwillingness and will-related faults.
2. The value of a performance as a business declaration is determined by the law of the habitual residence common to the declarant and the addressee or, in the absence of this, by the law of the place where such performance occurred.
3. The value of silence as a declaratory means is equally determined by the law of the common habitual residence or, in the absence thereof, by the law of the place where the proposal was received.

ARTICLE 35
(Form of declaration)
1. The form of business declaration is regulated by the law that applies to the substance of the business; however, it is enough to abide by the law in force at the place where the declaration is made, unless the regulatory law of the substance of the business requires complying with a certain form, under penalty of annulment or inefficacy, even if the business is effected abroad.
2. The business declaration is also valid if, instead of the form established by the local law, it complies with the law of the State to which the rule of conflicts of the former law defers, as long as the provisions set forth in the last part of the previous paragraph is respected.

ARTICLE 36
(Legal representation)
Legal representation is subject to the law regulating the legal relationship from which the representative power stems.

ARTICLE 37
(Organic representation)
Representation of the legal person through its bodies is regulated by the respective personal status law.

ARTICLE 38
(Voluntary representation)
1. Voluntary representation is regulated, as regards its existence, extent, modification, effects and extinguishment of representative powers, by the law of the State where these powers are exercised.
2. However, if the representative exercises representative powers in a country other than that indicated by the representee's and this fact is known to the third party he or she is dealing with, it is the law of the country of the representee's habitual residence that applies.
3. If the representative exercises the representation professionally and this is known to the third party, the law of the professional domicile applies.
4. When representation refers to the disposition or management of real estate, the law of the country where such real estate is situated shall apply.

ARTICLE 39
(Statutes of limitations forfeiture)
Statutes of limitations and forfeiture are regulated by the law applicable to each of them.

SUBSECTION III
Law regulating liabilities

ARTICLE 40
(Liabilities arising from legal transactions)
1. Liabilities arising from a legal transaction, as well as its very substance, are regulated by the law that the respective subjects have designated or considered.
2. However, the parties' designation or reference may only fall under the law whose applicability corresponds to the real interest of the declarants or is related to any of the elements of the legal transaction applicable in international private law.

ARTICLE 41
(Statutory criterion)
1. When the competent law has not been determined, in unilateral legal transactions the law of the declarant's habitual residence is applied, whereas, in contracts, it is the law of the habitual residence common to both parties.
2. When there is no common residence, free contracts abide by the law of the habitual residence of whoever attributes the benefit; in all other cases, the law of the place where the contract is entered into shall apply.

ARTICLE 42
(Business management)
The law that applies to business management is that of the place where the business manager's main activity takes place.

ARTICLE 43
(Unjustified gain)
Unjustified gain is regulated by the law based on which the transfer of patrimonial value in favour of its recipient occurred.

ARTICLE 44
(Extra-contractual responsibility)
1. Extra-contractual responsibility, whether based on an illicit act or on risk or on any legal act, is regulated by the law of the State where the main activity causing damage occurred; in the case of responsibility due to omission, the law of the place where the responsible party should have acted applies.
2. If the law of the State where the damaging effect was produced considers the agent responsible, but the law of the country where his or her activity took place does not, the former law shall apply, as long as the agent should have predicted the production of damage, in that country, as a consequence of his or her act or omission.
3. If, however, the agent and the aggrieved party have the same nationality or, in the absence thereof, the same habitual residence, and meet occasionally in a foreign country, the law that applies is that of their nationality or of their common residence, without prejudice to the provisions of the local State that shall apply interchangeably to every person.

SUBSECTION IV
Law regulating things

ARTICLE 45
(Rights of property)
1. The regime of possession, ownership and other rights of property is defined by the law of the State in whose territory the things are situated.
2. In everything regarding the constitution or transfer of rights of property over things in transit, these are considered to be located in the country of destination.
3. The constitution and transfer of rights of property over means of transportation subject to a registration are regulated by the law of the country where the registration has been carried out.

ARTICLE 46
(Capacity to constitute rights of property over immovable assets or to dispose of them)
The law of the location of the immovable also defines the capacity to constitute rights of property over immovable things or to dispose of them, as long as that law so determines; otherwise, the personal status law shall apply.

ARTICLE 47
(Intellectual property)
1. Copyright is regulated by the law of the place where the work is first published or, in case it is not published, by the author's personal status law, without prejudice to special legislation.
2. Intellectual property is regulated by the law of the country of its creation.

SUBSECTION V
Law regulating family relations

ARTICLE 48
(Capacity to marry or to enter into prenuptial agreements)
The capacity to marry or to enter into a prenuptial agreement is regulated, regarding each spouse-to-be, by their respective personal status law, which also defines the regime of unwillingness and will-related faults of the contracting parties.

ARTICLE 49
(Form of marriage)
The form of marriage is regulated by the law of the State where the act is celebrated, with exception of what is provided for in the following article.

ARTICLE 50
(Deviations)
1. Marriage between two foreigners in Timor-Leste may be celebrated according to the form prescribed in the national law of either of the contracting parties, before their respective diplomatic or consular agents, as long as the same competency is recognized by that law to Timorese diplomatic and consular agents.
2. Marriage abroad between two Timorese or between a Timorese and a foreigner may be celebrated before the diplomatic or consular agent of the Timorese State or before ministers of the Catholic church; in either case, the marriage should be preceded by the process of announcements, organized by the competent entity, unless it is waived under the terms of article 198.
3. Marriage abroad between two Timorese or between a Timorese and a foreigner, in agreement with the canonical laws, is viewed as a Catholic marriage, whichever the legal form of celebration of the act according to local law may be, and the parish record shall be the basis of its transcription.

ARTICLE 51
(Relations between spouses)
1. With exception of the provisions set forth in the following article, relations between spouses are regulated by the common national law.
2. If the spouses do not have the same nationality, the law of their common habitual residence applies or, in the absence thereof, the law of the country their family life is most closely related to.

ARTICLE 52

(Prenuptial agreements and regime of property)

1. The substance and effects of prenuptial agreements and of legal or conventional property regimes are defined by the national law of the spouses-to-be at the time the marriage is celebrated.
2. If the spouses-to-be are not of the same nationality, the law of their common habitual residence at the time of the marriage applies or, in the absence thereof, the law of their first residence as newlyweds.
3. If the applicable law is foreign and one of the spouses-to-be has his or her habitual residence in Timorese territory, one of the regimes provided for in this code may be chosen.

ARTICLE 53

(Changes in the regime of property)

1. Spouses are allowed to modify their legal or conventional regime of property if so authorized by the competent law under the terms of article 51.
2. In no case shall the new convention have a retroactive effect detrimental to a third party.

ARTICLE 54

(Judicial separation from persons and assets and divorce)

1. Article 51 applies to the legal separation of body and estate and to divorce.
2. If, however, in the duration of the marriage a change of the competent law occurs, only a relevant fact can justify the separation or the divorce at the time of the occurrence thereof.

ARTICLE 55

(Establishment of parentage)

1. The establishment of parentage abides by the personal law of the parent at the time the relationship was established.
2. In the case of a child of a married woman, the establishment of parentage regarding the father is regulated by the common national law of the mother and her husband; in the absence thereof, the law of the common habitual residence of the spouses applies and, if the latter is lacking as well, the personal status law of the child applies.
3. For the purposes of the previous paragraph, the moment to be considered is that of the child's birth or the moment of the marriage's dissolution, if it is prior to the birth.

ARTICLE 56

(Relations between parents and children)

1. Relations between parents and children are regulated by the common national law of the parents or, in the absence thereof, by the law of their common habitual residence; if the parents habitually live in different States, the personal status law of the child applies.
2. If the parentage is only established in relation to one of the parents, his or her personal status law applies; if one of the parents has died, the personal status law of the surviving parent is competent.

ARTICLE 57
(Adoptive parentage)

1. The establishment of adoptive parentage abides by the personal status law of the adopter, without prejudice to the provision set out in the following paragraph.
2. If the adoption is carried out by husband and wife or the child to be adopted is the child of the spouse of the adopter, the common national law of the spouses is competent or, in the absence thereof, the law of their common habitual residence; if the latter is also lacking, it shall be the law of the country with which the adopter's family life is most closely related that shall apply.
3. Relations between adopter and adoptee, and between adoptee and his or her family of origin, are subject to the personal status law of the adopter; in the case provided for in the previous paragraph, article 56 shall apply.
4. If the competent law to regulate relations between the adoptee and his or her parents is silent on the legal regime of adoption, or does not recognize it regarding the person who is related to adoptee, the adoption is not authorized.

ARTICLE 58
(Special requirements for acknowledgment or adoption of a child)

1. If, as a requirement for acknowledgement or adoption, the personal status law of the child to be acknowledged or adopted demands his or her consent, such requirement shall be fulfilled.
2. To be equally fulfilled is the requirement of a third party's consent to whom the interested party is related by any legal relationship through family or guardianship bonds, if established by the law regulating such relationship.

SUBSECTION VI
Law regulating successions

ARTICLE 59
(Competent law)

Succession by death is regulated by the personal law of the deceased at the time of his or her death, as are the powers of the manager of the inheritance and of the executor of the will.

ARTICLE 60
(Capacity to dispose of property)

1. The capacity to make, modify or revoke a disposition after death, as well as the requirements of the special form of the disposition due to the disposer's age, are regulated by the author's personal status law at the time of the declaration.
2. Whoever, after having disposed of property, acquires a new personal status law, maintains the necessary capacity to revoke such disposition under the terms of the previous law.

ARTICLE 61
(Interpretation of provisions; unwillingness and will-related faults)

It is the personal law of the author of the inheritance at the time of the declaration that regulates:
a) The interpretation of the respective clauses and provisions, unless another law is expressly or implicitly referred to;
b) Unwillingness and will-related faults;
c) The admissibility of joint wills or succession pacts, without prejudice to the provisions of article 52, as regards such wills and pacts.

ARTICLE 62
(Form)

1. Dispositions by death, as well as their revocation or modification, are valid in form if they correspond to the prescriptions of the law of the place where the act is carried out, or to the personal law of the author of the inheritance, whether at the moment of the declaration, or at the moment of death, or still to the prescriptions of the law referred to by the rule of conflicts of the local law.
2. If, however, the personal law of the author of the inheritance at the moment of the declaration requires, under penalty of annulment or inefficacy, the observance of a certain form, even if the act is performed abroad, such requirement shall be fulfilled.

TITLE II
ON LEGAL RELATIONSHIPS

SUBTITLE I
ON PERSONS

CHAPTER I
Natural persons

SECTION I
Personality and legal capacity

ARTICLE 63
(Emergence of personality)

1. Personality is acquired with complete birth and with life.
2. The rights recognized by the law to the unborn child depend on his or her birth.

ARTICLE 64
(Legal capacity)

Any person may be a party in any legal relationship, except as otherwise provided by law. This is what defines his or her legal capacity.

ARTICLE 65
(Termination of personality)

1. Personality ceases with death.
2. When a given legal effect depends on one person surviving another, in case of doubt it is assumed that both died at the same time.
3. A person whose corpse was not found or identified is presumed dead, when the disappearance took place in circumstances that leave no doubt as to his or her death.

ARTICLE 66
(Renouncing the legal capacity)

A person may not renounce, wholly or in part, his or her legal capacity.

SECTION II
Personality rights

ARTICLE 67
(General protection of personality)

1. The law protects individuals against any illicit offence or threat of offence towards their physical or moral personality.
2. Irrespective of the civil liability implied, the threatened or offended person may request the measures suited to the circumstances of the case, with the aim of avoiding the consummation of the threat or diminishing the effects of the offence already committed.

ARTICLE 68
(Offence towards deceased persons)

1. Rights of personality are equally protected after the death of the holder.
2. In this case, the surviving spouse or any descendant, ascendant, relative, sibling, nephew or heir of the deceased has the legitimacy to request the measures established in paragraph 2 of the previous article.
3. If the illegality of the offence results from the lack of consent, only those who should grant it have the legitimacy, jointly and severally, to request the measures referred to in the previous paragraph.

ARTICLE 69
(Right to a name)

1. Every person has the right to use his or her name, in full or abbreviated, and to take a stand against anybody else using it illicitly for his or her identification or for other purposes.
2. The holder of the name may not, however, particularly when exercising a professional activity, use it with the purpose of injuring the interests of another person whose name is fully or partially identical to his or her own; in such cases, the court will decide the measures that, according to equity judgments, will best conciliate the interests in conflict.

ARTICLE 70
(Legitimacy)

Acts regarding the protection of a name may be performed not only by the respective holder but also, after his or her death, by the persons referred to in paragraph 2 of article 68.

ARTICLE 71

A notable pseudonym deserves the same protection as the name itself.

ARTICLE 72
(Confidential letters missive)

1. The addressee of a letter missive shall keep its content secret and it is not lawful for him or her to take advantage of the elements of information it brought to his or her knowledge.
2. When the addressee has died, the return of the confidential letter missive may be ordered by the court, upon request of its author or, in case he or she has already died, of the persons indicated in paragraph 2 of article 68. The court may also order the destruction of the letter, its deposit in the hands of a competent person or any other appropriate measure.

ARTICLE 73
(Publication of confidential letters)

1. A confidential letter missive may only be published with the consent of its author or with judicial waiver of such consent, but such waiver may not take place if the letter is to be used as a literary, historical or biographical document.
2. After the death of the author, authorisation is vested in the persons designated in paragraph 2 of article 68, in the order indicated therein.

ARTICLE 74
(Family memories and other confidential documents)

With the necessary adaptations, the provisions of the previous article apply to family and personal memories and to other written documents with a confidential character or which refer to the intimacy of private life.

ARTICLE 75
(Non-confidential letters missive)

The addressee of such a letter may only use it in terms that are not contrary to the author's expectations.

ARTICLE 76
(Right to an image)

1. The portrait of a person may not be exhibited, reproduced or sold without his or her consent; after the death of the person portrayed, authorization is vested in the persons designated in paragraph 2 of article 68, in the order indicated therein.
2. The consent of the person portrayed is not required when justified by his or her notability, functional title or police or judicial requirements, as well as scientific, teaching or cultural purposes, or when the reproduction of the image is within the context of an image of a public place or of a fact of a public interest or that has occurred publicly.
3. However, portraits may not be reproduced, exhibited or sold if that results in damage to the honour, reputation or mere decorum of the person portrayed.

ARTICLE 77
(Right to the preservation of the intimacy of private life)
1. Everyone should preserve the intimacy of the private life of the other persons.
2. The extent of this preservation is defined according to the nature of the case and the condition of the persons involved.

ARTICLE 78
(Voluntary limitation of personality rights)
1. Any voluntary limitation of the exercise of personality rights shall be null and void if it is contrary to the principles of the public order.
2. When legal, voluntary limitation of personality rights can always be revoked, albeit with the obligation of compensating the damage caused to the legitimate expectations of the other party.

SECTION III
Domicile

ARTICLE 79
(General voluntary domicile)
1. The domicile of a person is the place of his or her habitual residence; if he resides alternately in several places, any of these places can be considered his or her domicile.
2. In the absence of habitual residence, the person is considered to be domiciled at the place of his or her occasional residence or, if this cannot be established, at the place where he or she happens to be.

ARTICLE 80
(Professional domicile)
1. The professional domicile of the person exercising a profession, as regards the relations by this implied, is the place where this profession is carried out.
2. If he or she exercises his or her profession in several places, each of them constitutes a domicile for the respective relations.

ARTICLE 81
(Elected domicile)
A particular domicile may be stipulated for certain transactions, as long as that stipulation is put in writing.

ARTICLE 82
(Legal domicile of minors and persons interdicted)
1. A minor's domicile is the place of his or her family's residence; in the absence thereof, it is the domicile of the parent who has custody over him or her.
2. The domicile of a minor entrusted to a third person or to an educational or social assistance establishment by judicial order is that of the parent who exercises the parental authority.
3. The domicile of a minor subject to guardianship and of an interdicted person is that of the respective guardian.
4. When a regime of management of property has been established, the domicile of the minor or of the interdicted person is that of the manager, in the relations such management refers to.
5. The rules of the previous paragraphs do not apply if they result in the minor or the interdicted person having no domicile on national territory.

ARTICLE 83
(Legal domicile of civil servants)
1. When there is a permanent place for exercising their occupations, civil servants, whether civilian or military, have this as their necessary domicile, without prejudice to their voluntary domicile at the place of their habitual residence.
2. The necessary domicile is determined by the occupation of their position or by the exercise of its respective functions.

ARTICLE 84
(Legal domicile of Timorese diplomatic agents)
When Timorese diplomatic agents invoke their extraterritoriality, they are considered to be domiciled in Díli.

SECTION IV
Absence

SUBSECTION I
Temporary management

ARTICLE 85
(Appointing a temporary manager)
1. When there is the need to manage the property of someone who has disappeared and has not been heard from and has not left a legal representative or attorney, the court must appoint a temporary manager.
2. A manager must also be appointed to act for the absentee if the attorney does not wish or is not able to exercise his or her functions.
3. A special manager can be appointed for certain affairs whenever the circumstances so require.

ARTICLE 86
(Injunctions)
The possibility of appointing a temporary manager does not hinder any injunctions that may become indispensable regarding any property of the absentee.

ARTICLE 87
(Legitimacy)
The temporary management and injunctions referred to in the previous article may be requested by the Office of the Public Prosecutor or by any interested party.

ARTICLE 88
(To whom should temporary management be granted)
1. A temporary manager shall be chosen from among the following persons: the spouse of the absentee, one or some of his or her presumptive heirs, or one or some of the parties interested in preserving his or her property.
2. Where there is a conflict of interests between the absentee and the manager or between the absentee and the spouse, ascendants or descendants of the absentee, a special manager shall be appointed, under the terms of paragraph 3 of article 85.

ARTICLE 89
(Property inventory and guarantee)
1. The absentee's property shall be inventoried and only then delivered to the temporary manager, who shall have a guarantee determined by the court.
2. In urgent cases, the handover of property may be authorized before it is inventoried or before the manager gives the required guarantee.
3. If the manager does not give the guarantee, another person will be appointed to take his or her place.

ARTICLE 90
(Rights and obligations of the temporary manager)
1. The manager is subject to the regime of the general mandate in everything that does not contradict the provisions of this subsection.
2. The temporary manager is responsible for requesting the necessary injunctions and to bring actions, the delay of which would injure the interests of the absentee; he or she shall also represent the absentee in all actions brought against him or her.
3. Only with judicial authorization may the manager dispose of or encumber real estate, precious objects, bills of exchange, commercial establishments and any other property the disposal or encumbrance of which does not constitute an act of management.
4. Judicial authorization shall only be granted when the act is justified in order to avoid property deterioration or ruin, to pay debts of the absentee, to pay for necessary or useful improvements or to satisfy any other urgent needs.

ARTICLE 91
(Accountability)
1. The temporary manager shall render account of his or her mandate before the court, annually or whenever the court so requires.
2. When definitive management is granted under the terms of the following subsection, the temporary manager must render account to the definitive managers.

ARTICLE 92
(Remuneration of the manager)
The manager shall keep ten per cent of the net income he or she produces.

ARTICLE 93
(Replacement of the temporary manager)
Upon request of the Office of the Public Prosecutor or of any interested party, the manager may be replaced as soon as his or her occupation of such position is no longer convenient.

ARTICLE 94
(End of the management)
Temporary management ends:
a) With the absentee's return;
b) If the absentee makes arrangements regarding the management of his or her property;
c) With the involvement of a person who legally represents the absentee or of a competent attorney;
d) With the handover of property to the definitive managers or to the head of the family, according to article 99;
e) With the confirmation of the absentee's death.

SUBSECTION I
Definitive management

ARTICLE 95
(Justification of the absence)
When two years have elapsed without hearing from the absentee, if he or she has not left a legal representative or a competent attorney, or five years, in the opposite case, the Office of the Public Prosecutor or any of the interested parties may request a justification of the absence.

ARTICLE 96
(Legitimacy)
Those interested in the justification of the absence are the non-legally separated spouse, the heirs of the absentee and all those who have a right over the absentee's property that depends on the condition of his or her death.

ARTICLE 97
(Opening wills)
If the absence is justified, the court shall request certificates of the registered public wills and order the opening of the existing sealed wills, so that they are taken into account in the distribution of property and in the approval of the definitive management.

ARTICLE 98
(Handover of property to legatees and other interested parties)
The legatees and all those who would be entitled to certain assets if the absentee had died may, as soon as the absence is justified and irrespective of the distribution of his or her estate, request that such assets be handed over to them.

ARTICLE 99

(Handover of property to the heirs)

1. The handover of property to those who were the heirs of the absentee at the time he or she was last heard of, or to the heirs of those who have since died, shall only take place after the partition thereof.
2. While the property is not handed over, its management belongs to the head of household designated under the terms of article 1944 and following articles.

ARTICLE 100

(Definitive managers)

The heirs and other interested parties to whom the property of the absentee has been handed over are considered to be definitive managers.

ARTICLE 101

(Emergence of new interested parties)

If, after the definitive managers are appointed, an heir or interested party emerges who, in relation to the time the absentee was last heard of, should exclude one of them or compete for the legacy, property shall be handed over to him or her under the terms of the previous articles.

ARTICLE 102

(Enforceability of obligations)

The enforceability of the obligations that would cease to exist if the absentee died is suspended.

ARTICLE 103

(Guarantee)

1. The may require a guarantee from the definitive managers or from one or some of them, considering the kind and value of the property and of the proceeds they shall eventually have to return.
2. While he or she does not give a guarantee, the manager may not receive the property; this is handed over, upon the termination of the management or after the guarantee is given, to another heir or interested party, who shall occupy the position of definitive manager regarding this particular property.

ARTICLE 104

(Married absentee)

If the absentee is married, the non-legally separated spouse may request a probate and partition, as a result of the proceedings for justification of absence, and demand the alimony he or she is entitled to.

ARTICLE 105

(Acceptance or rejection of the succession, disposition of sucession rights)

1. If the absence is justified, the rejection of the absentee's succession or the disposition of the respective succession rights is admitted.
2. The efficacy of the rejection or disposition, as well as the acceptance of the inheritance or legacies, are, however, subject to the resolutive condition that the absentee's survives.

ARTICLE 106

(Rights and obligations of the definitive managers and other interested parties)

Article 90 applies to the definitive managers to whom property has been handed over, thus extinguishing the powers may have previously been granted by the absentee regarding the same property.

ARTICLE 107

(Enjoyment of property)

1. The ascendants, descendants and the spouse appointed as definitive managers have the right, from the moment the property is handed over to them, to the totality of the perceived income.
2. The definitive managers not included in the previous paragraph shall reserve for the absentee one third of the net income of the property they manage.

ARTICLE 108

(End of the definitive management)

Definitive management ends:

a) With the absentee's return;
b) With news about his or her existence and the place where he or she resides;
c) With the confirmation of his or her death;
d) With the declaration of presumed death.

ARTICLE 109

(Returning property to the absentee)

1. In the cases referred in clauses a) and b) of the previous article, the absentee's property shall be delivered to him or her upon his or her request.
2. While the delivery is not requested, the management regime continues under the terms of this subsection.

SUBSECTION III

Presumed death

ARTICLE 110

(Requirements)

1. When ten years have elapsed since the absentee was last heard of, or five years if the absentee has meanwhile completed eighty years of age, the interested parties referred to in article 96 may request a declaration of presumed death.
2. The declaration of presumed death shall not be made before five years have elapsed since the date the absentee, if alive, would have reached majority.
3. The declaration of presumed death of the absentee does not depend on the prior installation of a temporary or definitive management and shall refer to the end of the day when he or she was last heard of.

ARTICLE 111
(Effects)
The declaration of presumed death produces the same effects as death, but it does not dissolve a marriage, without prejudice to the provisions of the following article.

ARTICLE 112
(New marriage of the absentee's spouse)
The spouse of a civilly married absentee may remarry; in this case, if the absentee returns, or there is news that he or she was alive when the new wedding was celebrated, the first marriage is considered dissolved from the time of the declaration of presumed death.

ARTICLE 113
(Handover of property)
The delivery of property to the successors of the absentee is carried out according to article 97 and following articles, with the necessary adaptations, but no guarantee shall be required, and if one has been given, it can be recovered.

ARTICLE 114
(Death at a different date)
1. When it is proved that the absentee died at a different date from the one established in the sentence of the declaration of presumed death, the right to the inheritance belongs to those who should succeed him or her at that time, without prejudice to the rules of acquisitive prescription.
2. In relation to their older counterparts, the newly appointed successors shall enjoy only the rights granted to the absentee in the following article.

ARTICLE 115
(Return of the absentee)
1. If the absentee returns or is heard of, his or her assets shall be returned to him or her in the state they find themselves in, with the price of the property disposed of or with the property directly subrogated, as well as with the property acquired with the price of the property disposed of, when the title deed of acquisition expressly states the origin of the money.
2. If there is bad faith on the part of the successors, the absentee has the right to compensation for the damage suffered.
3. In this case, bad faith consists of the knowledge that the absentee survived the date of his or her presumed death.

SUBSECTION IV
Eventual rights of the absentee

ARTICLE 116
(Rights that may survive the absentee)
The rights that may eventually survive the absentee since he or she disappeared and has not been heard of, and which depend on the condition of his or her existence, shall pass on to the persons entitled to them if the absentee were deceased.

ARTICLE 117
(Temporary and definitive management)
1. The provisions of the previous article do not modify the regime of temporary management, to which the rights referred to therein are subject.
2. Once a definitive management has been established, for all legal intents and purposes, the definitive managers are those who would be entitled to ownership of the rights under the terms of the same article.

SECTION V
Incapacities

SUBSECTION I
Legal condition of minors

ARTICLE 118
(Minors)
A minor is a person who has not yet completed seventeen years of age.

ARTICLE 119
(Minor's incapacity)
Unless otherwise provided, minors lack the capacity to exercise rights.

ARTICLE 120
(Supplantation of minor's incapacity)
A minor's incapacity is supplanted by parental authority and, subsidiarily, by guardianship, depending on the respective arrangement.

ARTICLE 121
(Annullability of minor's acts)
1. Without prejudice to the provision set forth in paragraph 2 of article 278, legal transactions performed by a minor may be annulled:
a) Depending on the case, on request of the parent exercising parental authority, of the guardian or of the property manager, as long as this suit is filed within one year from the date on which the applicant is informed of the contested transaction, but never after the minor has reached the age of majority or is emancipated, with the exception of the provision set out in article 127;
b) On request of the minor himself or herself, within one year of reaching the age of majority or being emancipated;
c) On request of any heir of the minor, within one year of his or her death, if it occurs before the expiry of the deadline referred to in the previous subparagraph.
2. Annullability is reversible upon the minor's confirmation, after reaching majority or being emancipated, or upon confirmation of the parent exercising parental authority, of the guardian or of the property manager, if it is an act that any of them could perform as the minor's representative.

ARTICLE 122
(Deceit by the minor)
A minor loses the right to invoke annullability, if in order to practice the act he or she resorted to deceit with the purpose of pretending to have reached the age of majority or being emancipated.

ARTICLE 123
(Exceptions to minor's incapacity)
1. Besides others established in the law, the following are exceptionally valid:
a) Acts of management or disposition of property that the individual over sixteen years of age acquired through his or her work;
b) Legal transactions that are characteristic of the minor's normal life within the scope of his or her natural capacity and only imply expenses, or property dispositions, of a small amount;
c) Legal transactions regarding the occupation, art or craft that the minor has been allowed to practice, or those practiced when exercising that occupation, art or craft.
2. For acts regarding the minor's occupation, art or craft and for acts practiced when exercising that occupation, art or craft, only the property the minor freely disposes of can answer.

ARTICLE 124
(Duty to obey)
In all that is not illicit or immoral, unemancipated minors shall obey their parents or guardian and abide by their rules.

ARTICLE 125
(End of minor's incapacity)
A minor's incapacity ends when they reach majority or are emancipated, except for the restrictions provided for in the law.

SUBSECTION II
Majority and emancipation

ARTICLE 126
(Effects of majority)
Whoever completes seventeen years of age acquires full capacity to exercise his or her rights, thus becoming qualified to rule over himself or herself and to dispose of his or her property.

ARTICLE 127
(Pendency of the action of interdiction or incapacitation)
However, when an act of interdiction or incapacitation is pending against the minor, when he or she reaches the age of majority, parental authority or guardianship shall be maintained until such a time as the respective sentence becomes final.

ARTICLE 128
(Emancipation)
The minor is, by right, emancipated through marriage.

ARTICLE 129
(Effects of emancipation)
Emancipation grants a minor full capacity to exercise his or her rights, qualifying him or her to rule over himself or herself and to dispose of his or her property freely as if he or she were an adult, with the exception of the provisions of article 1536.

SUBSECTION III
Interdictions

ARTICLE 130
(Persons subject to interdiction)
1. All those who, due to a mental disorder or for being hearing, speaking and/or visually impaired , are considered incapable of ruling themselves and their property, may be interdicted from exercising their rights.
2. Interdictions apply to adults; but they may be requested and decreed within the year prior to majority, in order to enter into effect from the day a minor reaches the age of majority.

ARTICLE 131
(Capacity of the interdicted person and interdiction regime)
Without prejudice to the provisions set out in the following articles, the interdicted person is compared to a minor, and the provisions regulating incapacity due to minority and establishing forms of supplanting parental authority are applicable, with the necessary adaptations.

ARTICLE 132
(Competency of the common courts)
The court, where the interdiction proceedings run, has the competency attributed to the court competent to regulate the supplantation of parental authority.

ARTICLE 133
(Legitimacy)
1. Interdiction may be requested by the spouse of the person to be interdicted, by his or her guardian or by his or her manager, by any relative in the line of succession or by the Office of the Public Prosecutor.
2. If the person to be interdicted is under parental authority, only the parents exercising such authority and the Office of the Public Prosecutor have the legitimacy to request the interdiction.

ARTICLE 134
(Temporary procedures)
1. At any time of the process, a temporary guardian may be appointed to carry out, in the name of the person to be interdicted, and authorized by the court, acts the delay of which might cause him or her damage.
2. A temporary interdiction may also be decreed, if there is the urgent need to take measures regarding the person to be interdicted and his or her property.

ARTICLE 135
(Determining a guardian)
1. Guardianship is granted in the following order:
a) To the spouse of the interdicted person, unless he or she is legally separated or separated de facto through his or her own fault, or if he or she is legally incapacitated because of some other cause;
b) To the person appointed by the parent(s) exercising parental authority, in a will or in an authentic or certified document;
c) To either of the parents of the interdicted person who, according to the latter's interest, the court appoints;
d) To adult sons, preferably to the oldest one, except if the court, upon hearing the family council, considers that one of the others is better fitted for that role.
2. When it is not possible to grant guardianship under the terms of the previous paragraph or serious reasons warn against doing so, the court, after hearing the family council, shall appoint a guardian.

ARTICLE 136
(Exercising parental authority)
When guardianship falls upon the father or the mother, these exercise their parental authority according to article 1758 and following articles.

ARTICLE 137
(Special duty of the guardian)
The guardian shall take special care of the interdicted person's health and may, for this purpose, dispose of his or her property, after obtaining the necessary judicial authorization.

ARTICLE 138
(Excuse from guardianship and exoneration of the guardian)
1. The spouse of the interdicted person, as well as the descendants or ascendants of the latter, may excuse themselves from guardianship or be exonerated from it, unless there has been a violation of the provisions set out in article 135.
2. The descendants of the person interdicted may, however, be exonerated at their request after five years, if there are other dependants who are equally competent to exercise this role.

ARTICLE 139
(Publicizing the interdiction)
The provisions of articles 1803 and 1804, with the necessary adaptations, are applicable to the sentence ordering definitive interdiction.

ARTICLE 140
(Acts of the interdicted person after the sentence is registered)
Legal transactions performed by the interdicted person after the sentence ordering definitive interdiction is registered may be declared null and void.

ARTICLE 141
(Acts practiced in the course of action)
1. Equally annullable are the legal transactions carried out by the incapacitated person after it is announced under the terms of the civil procedure that an action has been started, provided the interdiction is then definitively decreed and the transaction is shown to have caused damage to the interdicted person.
2. The time for the action of annulment to be proposed only starts counting after the sentence is registered.

ARTICLE 142
(Acts prior to publicizing the action)
To transactions carried out by the incapacitated person before the start of the action is announced, the provisions regarding accidental incapacity shall apply.

ARTICLE 143
(Lifting the interdiction)
When the cause that determined the interdiction ceases, it may be lifted upon request of the interdicted person himself or herself or of the persons mentioned in paragraph 1 of article 133.

SUBSECTION IV
Incapacitation

ARTICLE 144
(Persons subject to incapacitation)
A person may be considered incapacitated if his or her mental disorder , hearing, speaking and/or visual impairment , though permanent, is not so serious as to justify his or her interdiction, as well as those persons who, due to their usual prodigality or because of drinking alcohol or of using drugs, become incapable of adequately managing their property.

ARTICLE 145
(Remedy for the state of incapacitation)
1. The incapacitated person is assisted by a manager, whose authorization is needed for acts of disposal of property among the living and all those that, given the circumstances of each case, are specified in the sentence.
2. The trustee's authorization may be judicially granted.

ARTICLE 146
(Management of the incapacitated person's property)
1. The management of the incapacitated person's property may be handed over by the court, wholly or in part, to the manager.
2. In this case, a family council shall be constituted and a member shall be appointed who, as sub-trustee , is responsible for the functions performed t by the proguardian in the guardianship.
3. The trustee shall render accounts of his or her management.

ARTICLE 147
(Lifting the state of incapacitation)
When the state of incapacitation is caused by prodigality or alcohol or drug abuse, lifting it cannot be granted before five years elapse after confirmation of the sentence that decreed it or of the decision that denied a prior request.

ARTICLE 148
(Statutory regime)
In everything that is not specially regulated in this subsection the matter of incapacitation abides by the regime of interdictions, with the necessary adaptations.

CHAPTER II
Legal persons

SECTION I
General provisions

ARTICLE 149
(Field of application)
The provisions of this chapter apply to associations, the aim of which is not the economic profit of their associates, to foundations of social interest, and to companies, when the analogy of the situations justifies it.

ARTICLE 150
(Acquisition of legal personality)
1. Associations constituted by a public deed, as specified in paragraph 1 of article 159, have legal personality.
2. Foundations acquire legal personality through recognition, which is on a case-by-case basis and of the competence of the administrative authority.

ARTICLE 151
(Nullity of the act of constitution or institution)
Article 271 applies to the constitution of legal persons, and it is incumbent upon the Office of the Public Prosecutor to promote the judicial declaration of nullity.

ARTICLE 152
(Main office)
The main office of the legal person is the one established by the respective statutes or, in the absence thereof, the place where the senior management usually works.

ARTICLE 153
(Capacity)
1. The capacity of legal persons comprises all the rights and obligations needed or convenient to **achieve their aims.**
2. Exceptions are made to the rights and obligations vetoed by law or those that are inseparable from individual personality.

ARTICLE 154

(Bodies)

The statutes of the legal person shall designate the respective bodies, among them a collegial managerial body and a supervisory board, both of which are constituted by an odd number of members, of whom one shall be the president.

ARTICLE 155

(Representation)

1. Representation of the legal person, in and out court, is the duty of whoever the statutes determine or, in the absence thereof, of management or of whoever the latter designates.
2. The designation of representatives by the management is only opposable to third parties when it is proved they were acquainted.

ARTICLE 156

(Obligations and responsibilities of members of governing bodies of legal persons)

1. The obligations and responsibilities of the members of the governing bodies of legal persons towards the latter are defined in the respective statutes or, in the absence thereof, the rules of the mandate shall be applied with the necessary adaptations.

2. The members of the governing bodies may not abstain from voting on the deliberations made at meetings where they are present, and they are responsible for the damage resulting therefrom, unless they have expressed their disagreement.

ARTICLE 157

(Civil liability of legal persons)

Legal persons are civilly liable for the acts or omissions of their representatives, agents or proxies in the same terms as principals account for the acts or omissions of their agents.

ARTICLE 158

(Disposal of property in the case of winding-up)

1. If the legal person is wound up and there is property that has been donated to it or left with some encumbrance or is meant for a specific purpose, the court shall, upon request of the Office of the Public Prosecutor, the liquidators, any associate or interested party, or of heirs of the donor or of the author of the inheritance, assign that property, with the same encumbrance or charge, to another legal person.
2. The disposal of property not included in the previous paragraph is determined by the statutes or by deliberation of the associates, without prejudice to the provisions set out in special laws; where there is no decision regarding the disposal thereof and no special law, the court shall, upon request of the Office of the Public Prosecutor, the liquidators, or any associate or interested party, determine that it be assigned to another legal person or to the State, guaranteeing, to the extent possible, the fulfilment of the purposes of the wound-up person.

SECTION II
Associations

ARTICLE 159
(Constitutive act and statutes)

1. The constitutive act of an association shall specify the property or services whereby the associates will contribute to the asset value thereof, as well as its name, purpose and main office, including its modus operandi and duration, when the association is not constituted for an indefinite period of time.
2. The statutes may also specify the associates' rights and duties, the conditions for admitting them, allowing them to leave and excluding them, as well as the terms of winding-up of the legal person and subsequent return of its assets.

ARTICLE 160
(Form and publication)

1. The constitutive act of an association, its statutes and its modifications shall undergo a notarial deed, without prejudice to the provisions contained in a specific law
2. The notary shall, as a matter of procedure, and at the expense of the association, communicate the constitution and statutes, as well as any alterations thereto, to the administrative authority and to the Office of the Public Prosecutor, and send an extract thereof to the official gazette for publication.
3. The constitutive act of an association, its statutes and any alterations thereto bear no effects on third parties, as long as they are not published in accordance with the previous paragraph.

ARTICLE 161
(Members of the bodies of the association and revocation of their powers)

1. It is incumbent upon the general assembly to elect the members for the bodies of the association whenever the statutes do not establish another process for choosing them.
2. The functions of the elected or designated members may be revoked, but such revocation does not prejudice those rights grounded on the constitutive act.
3. The right to revocation may be limited by the statutes to the existence of a justa causa.

ARTICLE 162
(Convening and running of the administrative and supervisory boards)

1. Both the administrative and supervisory boards are convened by their respective presidents and may deliberate only with the majority of their members present.
2. With the exception of legal or statutory provisions to the contrary, deliberations are made by majority vote of the members present and the president, besides his or her own vote, has the right to the casting vote.

ARTICLE 163

(Competency of the general assembly)

1. The general assembly is in charge of all the deliberations that are not part of the legal or statutory responsibilities of other bodies of the legal person.
2. It is incumbent upon the general assembly to remove members of the bodies of the association, approve the accounts, amend its statutes, wind up the association and authorize it to take legal action against the managers for facts occurred while fulfilling their duties.

ARTICLE 164

(Convening the assembly)

1. The general assembly shall be convened by management under the circumstances established by the statutes and, in any case, once a year to approve the accounts.
2. The general assembly shall also be convened as and when requested, with a legitimate purpose, by a group of associates no smaller than a fifth of their total, if another number is not determined in the statutes.
3. If the management does not convene the general assembly in the cases where it should, it is licit for any associate to do so.

ARTICLE 165

(Manner of convening)

1. The general assembly is convened through a postal notification, sent out to each of the associates at least eight days in advance; the notification shall indicate the date, time and venue of the meeting and the respective agenda.
2. Deliberations made about subjects other than those included in the agenda are annullable, unless all associates appear at the meeting and all agree with such additions.
3. The presence of all the associates sanctions any irregularities of the convening process, provided none of them is against the assembly taking place.

ARTICLE 166

(How the assembly works)

1. In the first convening, the general assembly may not deliberate without the presence of at least half of its associates.
2. With the exception of the provisions set forth in the following paragraphs, deliberations are made by absolute majority of the associates present.
3. Deliberations concerning the modification of the statutes require a favourable vote of three quarters of the number of associates present.
4. Deliberations concerning the dissolution or continuation of the legal person require a favourable vote of three quarters of the total number of associates.
5. The statutes may require a higher number of votes than that established in the previous rules.

ARTICLE 167

(Deprivation of the right to vote)

1. An associate may not vote, in his or her own name or as fellow associate's representative, concerning matters where there is a conflict of interests between the association and himself or herself, his or her spouse, ascendants or descendants.
2. Those deliberations made in violation of the provisions set forth in the previous paragraph are annullable if the vote of the impeded associate is essential to make up the majority required.

ARTICLE 168

(Deliberations contrary to the law or the statutes)

The deliberations of the general assembly that are contrary to the law or the statutes, whether because of their object, or due to irregularities arising from the convening of the associates or from the way in which the assembly takes place, are annullable.

ARTICLE 169

(Regime of annullability)

1. The annullability mentioned in the previous articles may be contested, within six months, by the administrative board or by any associate who did not vote the deliberation.
2. If the associate in question was not regularly convened to the assembly meeting, the six-month period only starts counting from the date on which he or she is informed of the deliberation.

ARTICLE 170

(Protection of a third party's rights)

Annulment of deliberations of the assembly does not prejudice the rights that a third party in good faith has acquired through the execution of the annulled deliberations.

ARTICLE 171

(Personal nature of the quality of associate)

Unless a statutory provision states otherwise, the quality of associate is non-transmissible, whether by act among living persons, or by succession; an associate may not authorize someone else to exercise his or her own personal rights.

ARTICLE 172

(Effects of withdrawal or exclusion)

An associate who, somehow, is no longer a part of the association does not have the right to repeat the affiliation fees he or she has paid and loses the right to corporate assets, without prejudice to his or her responsibility for all the services he or she rendered during the time he or she was a member of the association.

ARTICLE 173
(Causes for winding up)

1. Associations are wound up:
a) By deliberation of the general assembly;
b) Because time is up, if they were constituted temporarily;
c) Because of the occurrence of some other cause that calls for winding up as provided for in the constitutive act or in the statutes;
d) Due to the death or disappearance of all its associates;
e) By judicial ruling declaring its insolvency.
2. Associations are also wound up by judicial ruling:
a) When their purpose is fulfilled or has become impossible;
b) When their real purpose does not match the purpose expressed in the constitutive act or in the statutes;
c) When its purpose is systematically sought through illicit or immoral means;
d) When its existence becomes contrary to the public order.

ARTICLE 174
(Declaration of winding up)

1. In the cases provided for in subparagraphs b) and c) of paragraph 1 of the previous article, the winding up of an association shall only be undertaken if, thirty days following the date on which it should happen, the general assembly does not decide to extend the association or amend its statutes.
2. In the cases mentioned in paragraph 2 of the previous article, the declaration of winding up may be requested in court by the Office of the Public Prosecutor or by any party concerned.
3. Winding up due to a declaration of insolvency occurs as a result of the declaration itself.

ARTICLE 175
(Effects of the winding up)

1. When an association is wound up, the powers invested in its bodies are limited to the practice of merely conservative acts required to liquidate its corporate property or conclude pending business; for the remaining acts and for the damage these may cause to the association, the managers who practice them are jointly accountable.
2. For the liabilities that the managers run into, the association is only accountable before third parties if these were in good faith and if the winding up of the association was not duly publicized.

SECTION III
Foundations

ARTICLE 176
(Institution and its revocation)

1. Foundations may be instituted through an act between living persons or through a will; in either case, their respective recognition serves as acceptance of the property destined for them.
2. This recognition may be requested by the founder, his or her heirs or will executors, or it may be, as a matter of procedure, promoted by the competent authority.
3. The institution of a foundation by an act inter vivos shall feature in a public deed and become irrevocable as soon as recognition is requested or the respective process is initiated as a matter of procedure.
4. The heirs of the founder may not revoke the institution of the foundation, without prejudice to the provisions regarding compulsory succession.
5. The final part of article 160 applies to the act of instituting a foundation, when it features in a notarial deed, as well as, in any case, to its statutes and alterations.

ARTICLE 177
(Act of institution and statutes)

1. In the act of institution the founder shall indicate the purpose of the foundation and specify the property destined therefor.
2. In the act of institution or in the statutes the founder may also make arrangements regarding the main office, organization and functioning of the foundation, regulate the terms of its transformation or winding up and determine the disposal of the respective assets.

ARTICLE 178
(Statutes produced by a person other than the founder)

1. In case no statutes are produced by the founder or if they are insufficient, and the institution of the foundation features in a will, it is incumbent upon the will executors to draft the statutes, wholly or in part, or finalise them.
2. The authority who has competence to recognize the foundation is responsible for the total or partial drafting of the statutes if the founder has not produced them and the institution of the foundation does not feature in a will, or when the will executors do not produce them within one year following the opening of the succession.
3. The drafting of the statutes shall take into consideration, to the extent possible, the real or presumable intention of the founder.

ARTICLE 179
(Recognition)
1. Foundations whose purpose is not considered to have social interest by the competent entity shall not be recognized.
2. Recognition shall also be denied when the assets belonging to the foundation proves insufficient to follow through with the aimed purpose and there are no realistic expectations of overcoming this insufficiency.
3. When recognition is denied due to insufficiency of assets, the institution of the foundation ceases, if the founder is alive; however, if he or she is deceased, the property shall be handed over to an association or foundation with analogous goals, designated by the competent entity, except as otherwise provided by the founder.

ARTICLE 180
(Alteration of statutes)
The statutes of the foundation may be amended, at all times, by the competent authority regarding its recognition, based on a proposal by the respective management, provided no essential change is made regarding the purpose of the institution and the founder's intention is not opposed.

ARTICLE 181
(Transformation)
1. Once the management is heard, and the founder too, if he or she is alive, the competent entity for its recognition may attribute a different purpose to the foundation:
a) When the purpose for which it was established has been completely fulfilled or has become impossible;
b) When its purpose no longer has social interest;
c) When the assets become insufficient for undertaking the aimed purpose.
2. The new purpose should resemble the goal established by the founder as much as possible.
3. No change may be made to the purpose of the foundation if the act of institution dictates the foundation's winding up.

ARTICLE 182
(Encumbrance harming the goals of the foundation)
1. If the foundation's assets as encumbered with burdens whose fulfilment prevents or seriously hinders completing its institutional goal, the competent entity for the recognition of the foundation may, based on a proposal by the management, suppress, reduce or commute these burdens, after hearing the founder himself or herself, if he is alive.
2. However, if this burden was an essential motive of the institution, the same entity may consider its fulfilment as a purpose of the foundation, or incorporate the foundation in another legal person, capable of executing this burden at the expense of the incorporated assets, without prejudice to the achievement of its own goals.

ARTICLE 183
(Causes for winding up)
1. Foundations are wound up:
a) Because the expiry date has elapsed, if they were constituted temporarily;
b) Because of the occurrence of some other cause that calls for winding up according to that established in the act of constitution;
c) By judicial ruling that declares its insolvency.
2. Foundations may also be wound up by the competent entity for their recognition:
a) When their purpose has been completely fulfilled or has become impossible;
b) When their real purpose does not match the purpose expressed in the act of constitution;
c) When their purpose is systematically pursued through illicit or immoral means;
d) When their existence becomes contrary to public order.

ARTICLE 184
(Declaration of winding up)
If any of the causes occur that call for winding up as provided for in paragraph 1 of the previous article, the management of the foundation shall communicate the fact to the competent authority for its recognition, so the latter may declare its winding up and take the measures considered convenient to liquidate its assets.

ARTICLE 185
(Effects of the winding up)
Once the foundation is wound up, article 175 applies, unless special provisions to the contrary have been made by the competent authority.

CHAPTER III
Associations without legal personality and special commissions

ARTICLE 186
(Organization and management)
1. The internal organization and management of associations without legal personality abide by the rules established by their associates or, in the absence thereof, by the legal provisions regarding associations, with the exception of those that presume their legal personality.
2. The limitations imposed on the normal powers of the managers may only be opposed by a third party when the latter knew or should have known about them.
3. The withdrawal of associates is regulated under the terms of article 172.

ARTICLE 187
(Common fund of associations)
1. The contributions of the associates and the assets thus acquired constitute the common fund of the association.
2. As long as the association exists, no associate may demand the partition of the common fund and no creditor of the associates has the right to take legal hold of this fund.

ARTICLE 188

(Gifts and legacies)

1. Gifts and legacies in favour of associations without legal personality are considered to be made to their respective associates, as such, unless the author of the inheritance or donation imposes on such associations the condition of acquiring legal personality; in this case, if this acquisition is not made within a year, such liberality loses effect.
2. The property left or donated to an association without legal personality adds to the common fund, irrespective of other acts of transmission.

ARTICLE 189

(Responsibility for debts)

1. The common fund is responsible for the liabilities validly assumed in the name of the association or, when the common fund is non-existent or insufficient, responsibility is assumed by the assets of the person who made the debts; if the act is practiced by more than one person, they are jointly and severally responsible.
2. When the common fund and the associates' assets are non-existent or insufficient, the creditors take action against the remaining associates, who are responsible in the same proportion as their entry into the common fund.
3. Representation in court of the common fund is up to those who have assumed the liability.

ARTICLE 190

(Special commissions)

If commissions created to carry out any relief or beneficence plan, or to promote the execution of public works, monuments, festivals, exhibitions, celebrations and similar acts, do not request or do not obtain recognition of the association's legal personality, they are subject to the subsequent provision, except as otherwise stipulated by law.

ARTICLE 191

(Responsibility of organizers and managers)

1. The members of the commission and those in charge of managing its funds are personally and jointly responsible for the conservation of the funds gathered and for assigning their use to the goal announced.
2. The members of the commission are also personally and jointly responsible for the liabilities incurred in its name.
3. Subscribers may only demand the value they have subscribed if the purpose for which the commission was created is not fulfilled.

ARTICLE 192

(Applying assets to another goal)

1. If the funds raised are insufficient for the announced goal, or if the latter is impossible to reach, or if some of the funds are left over after fulfilling the commission's goal, these assets shall be applied as established in the constitutive act of the commission or in the announced program.
2. If no application has been established and the commission does not wish to apply the assets to an analogous end, it is incumbent upon the administrative authority to decide over its disposal, respecting the subscribers' intention, to the extent possible.

SUBTITLE II
On things

ARTICLE 193
(Concept)

1. Things are all that can be the object of legal relationships.
2. However, all things that cannot be the object of private rights, such as those found in the public sphere and those whose nature renders them impervious to individual appropriation, are considered to be outside the commercial circle.

ARTICLE 194
(Classification of things)

Things are immovable or movable, simple or composed, fungible or non fungible, consumable or non consumable, divisible or indivisible, essential or accessory, present or future.

ARTICLE 195
(Immovable things)

1. The following are immovable things:
a) Land and town property;
b) Waters;
c) Trees, bushes and natural fruits, as long as these are planted in the land;
d) Inherent rights of the immovable things mentioned in the previous clauses;
e) Integral parts of land and town property.
2. A rustic building is defined as a delimited plot of land and the constructions inside it that have no economic autonomy; an urban building is defined as any building fixed to the ground, with the land that surrounds it.
3. Every movable thing attached to the building permanently is an integral part thereof.

ARTICLE 196
(Movable things)

1. Movable things are all those not included in the previous article.
2. The movable things subject to notarial registry comply with the regime of movable things in all that is not especially regulated.

ARTICLE 197
(Composed things)

1. A composed thing, or universality de facto, is the plurality of movable things that belong to the same person and have a common destination.
2. The single things that constitute universality may be the object of unique legal relationships.

ARTICLE 198
(Fungible things)

Fungible things are those specified by their type, quality and quantity when they are the object of legal relationships.

ARTICLE 199
(Consumable things)
Consumable things are those whose regular use consists in their destruction or disposal.

ARTICLE 200
(Divisible things)
Divisible things are those that can be separated without altering their substance, reducing their value or harming their envisaged use.

ARTICLE 201
(Accessories)
1. Accessories, or qualities, are movable things that, without being integral parts of the main thing, are at its service or ornamentation in a lasting manner.
2. Legal transactions whose object is the main thing do not include accessories, unless otherwise stated.

ARTICLE 202
(Future things)
Future things are those that are not in the grantor's power, or those he has no right to, at the time of the business declaration.

ARTICLE 203
(Fruits)
1. Fruits of a thing are all it produces periodically, without prejudice to its substance.
2. Fruits are natural or legal; natural fruits are those proceeding directly from the thing, and legal fruits are rents or interest the thing produces as a consequence of a legal relationship.
3. Considered as fruits of the universalities of animals are the youngsters that are not destined to replace heads of cattle that come to lack for some reason, the residues, and all the earnings made, even if on a casual basis.

ARTICLE 204
(Partition of fruits)
1. Those who have the right to natural fruits until a particular time, or from a certain moment, are entitled to receive all the fruits perceived during the duration of their right.
2. With respect to legal fruits, division is proportional to the duration of the right.

ARTICLE 205
(Fruits gathered prematurely)
Whoever gathers fruits prematurely is required to return them, if his or her right extinguishes before the normal harvest.

ARTICLE 206
(Returning fruits)
1. Whoever is required by law to return perceived fruits has the right to reimbursement for the expenses of cultivation, seeds and raw materials and the remaining costs of production and harvest, as long as they do not exceed the value of the fruits.
2. In the case of pending fruits, the person required to return the thing has no right to claim reimbursement, except in special cases established in the law.

ARTICLE 207
(Improvements)
1. Improvements are considered to be all the expenses incurred to preserve or improve the thing.
2. Improvements are necessary, useful or voluptuary.
3. Necessary improvements are those aiming to prevent the loss, destruction or deterioration of the thing; useful improvements are those that are not indispensable for its conservation but increase the thing's value; voluptuary improvements are those that are not indispensable to its conservation and do not increase its value, merely serving to amuse the person who makes the improvements.

SUBTITLE III
ON LEGAL FACTS

CHAPTER I
Legal transactions

SECTION I
Business declaration

SUBSECTION I
Types of declaration

ARTICLE 208
(Express declaration and implied declaration)
1. A business declaration can be express or implied: it is express when made by words, in writing or by any other direct means of expressing intention; it is implied when it is deducted from facts that reveal it in all probability.
2. The formal nature of a declaration does not prevent it from being issued in an implied manner, provided that the form regarding the facts from which it is deducted has been observed.

ARTICLE 209
(Silence as a means of declaration)
Silence is valid as a business declaration if it is granted this value by law, usage or convention.

SUBSECTION II
Form

ARTICLE 210
(Freedom of form)

The validity of a business declaration does not depend on the observance of a special form, except where the law so requires.

ARTICLE 211
(Non-observance of legal form)

A business declaration which lacks the legally prescribed form is invalid, unless a different sanction is especially provided for by law.

ARTICLE 212
(Scope of legal form)

1. Accessory oral stipulations prior to, or contemporaneous with, the document legally required for a business declaration, are invalid, unless the reason determining the form does not apply to them and they provenly correspond to the intention of the author of the declaration.
2. Stipulations subsequent to the document are only subject to the prescribed legal form for the declaration if the reasons for a special requirement in the law apply to them.

ARTICLE 213
(Scope of voluntary form)

1. If the written form is not required by law, but has been adopted by the author of the declaration, accessory oral stipulations prior to, or contemporaneous with, the written matter are valid, when they provenly correspond to the intention of the declarant and the law does not subject them to a written form.
2. Oral stipulations subsequent to the document are valid, unless the law requires the written form for the purpose in question.

ARTICLE 214
(Conventional form)

1. The parties may stipulate a special form for the declaration; in this case, it is presumed that the parties only wish to be bound by the conventional form.
2. However, if the form is only agreed upon after the transaction is concluded or at the moment of its conclusion, and there are grounds to admit that the parties wished to be bound from the start, the convention is presumed to have aimed at the consolidation of the transaction, or at some other effect, but not at its replacement.

SUBSECTION III
Perfection of business declaration)

ARTICLE 215
(Efficacy of business declaration)
1. A business declaration which has a specific addressee produces effect as soon as it reaches him or he is informed of it; other business declarations come into effect as soon as the declarant's intention is expressed in the appropriate form.
2. A declaration which was not timely received by the addressee solely to his or her own fault is also considered to have come into effect.
3. A declaration received by the addressee in such a state that it cannot be understood, and due to no fault of his or her own produces no effect.

ARTICLE 216
(Public announcement of declaration)
A declaration may be made through an announcement published in one of the newspapers of the residence of the declarant, if addressed to an unknown person or to someone whose whereabouts are unknown to him.

ARTICLE 217
(Death, incapacity or incidental unavailability)
1. The death or incapacity of the declarant after the declaration is issued does not jeopardize its effect, unless the contrary results from the declaration itself.
2. The declaration is ineffective if, while the addressee does not receive it or is not informed of it, the declarant loses the power to dispose of the right it refers to.

ARTICLE 218
(Fault in the formation of contracts)
1. Whoever negotiates with another for the conclusion of a contract should proceed, both in the preliminaries and in its formation, in accordance with the rules of good faith, under penalty of having to answer for the damage culpably caused to the other party.
2. Responsibility ceases under the terms of article 432.

ARTICLE 219
(Duration of the contractual proposal)
1. A contract proposal binds the proponent in the following terms:
a) If a deadline for acceptance has been established by the proponent or agreed by the parties, the proposal remains open until this time expires;
b) If no deadline is established, but the proponent requests an immediate answer, the proposal remains open until, in normal conditions, both proposal and acceptance reach their destination;
c) If no deadline is established and the proposal is made to a person who is not present, or in writing to a person who is present, it will remain open until five days after the deadline set in the preceding subparagraph.
2. The provisions established in the previous paragraph do not prejudice the right to revoke a proposal under the terms in which revocation is admitted in article 221.

ARTICLE 220

(Late receipt)

1. If the proponent receives acceptance of the offer belatedly, but has no reason to admit it was sent past the proper time, he must immediately warn the acceptant that the contract was not concluded, under penalty of being liable for the damage caused.
2. However, the proponent shall consider a belated reply effective, provided it was sent in a timely manner; in any other case, the formation of the contract depends on a new proposal and a new acceptance.

ARTICLE 221

(Irrevocability of the proposal)

1. Unless otherwise stated, the contract proposal is irrevocable after being received by the addressee or after he is informed about it.
2. However, if at the same time as the proposal, or before it, the addressee receives the proponent's recantation or is otherwise informed of it, the proposal loses it effect.
3. The revocation of the proposal, when addressed to the public, produces effect as long as it is made in the form of an offer or in an equivalent form.

ARTICLE 222

(Death or disability of the offered or of the addressee)

1. Contract conclusion shall not be affected by the death or disabilities of the offered, save there are grounds to believe that his or her will would have been different.
2. The offer shall be deemed ineffective following the death or disability of the addressee.

ARTICLE 223

(Scope of the understanding)

No contract shall be concluded until the parties have agreed on every clause upon which agreement has been required by any party.

ARTICLE 224

(Acceptance with modifications)

Acceptance with additions, limitations or any other modifications shall mean that the offer is rejected. If however the modification is sufficiently precise it shall be considered a new offer, provided that a different meaning does not result from the declaration.

ARTICLE 225

(Dischargeable declaration of acceptance)

Whenever the offer, the very nature of the transaction or its circumstances, or custom render the declaration of acceptance dischargeable, the contract shall be deemed concluded as soon as the conduct of the other party evidences intent to accept the offer.

ARTICLE 226
(Revocation of acceptance or rejection)
1. If the addressee rejects the offer but subsequently accepts it, then acceptance shall prevail as long as it is received by the offerer, or comes to his or her knowledge, at the same time as the rejection or before it.
2. Acceptance may be revoked by way of a declaration that is received by the offerer, or comes to his or her knowledge, at the same time as the said acceptance or before it.

SUBSECTION IV
Interpretation and incorporation

ARTICLE 227
(Standard meaning of the declaration)
1. A declaration of intent shall have the meaning that any standard addressee, placed in the position of an actual addressee, may deduce from the behaviour of the declarant, unless he or she cannot reasonably rely upon such behaviour.
2. Whenever the addressee knows the actual will of the declarant, the declaration made shall be interpreted in the light of such will.

ARTICLE 228
(Cases of doubt)
In case of doubt the declaration shall have the meaning that is the less grievous for the grantor, in non-valuable transactions, or that which ensures a better balance of the considerations, in valuable transactions.

ARTICLE 229
(Formal transactions)
1. In formal transactions the declaration shall not be valid if its meaning does not minimally correspond to the text of the respective document, albeit imperfectly expressed.
2. Such meaning may none the less be valid if it corresponds to the real will of the parties and the reasons determining the form of the transaction do not diminish such validity.

ARTICLE 230
(Incorporation)
In the absence of special arrangements, the declaration of intent should be incorporated in accordance with the will that the parties would have had if they had anticipated the absent provision, or in accordance with bona fide rules, when such rules impose a different solution.

SUBSECTION V
Unwillingness and will-related faults

ARTICLE 231
(Simulation)

1. If, by agreement of the declarant and the addressee, aimed at deceiving third parties, there is a discrepancy between the declaration of intent and the actual will of the declarant, the transaction is called simulated.
2. Simulated transactions shall be deemed null.

ARTICLE 232
(Relative simulation)

1. When behind the simulated transaction there is another transaction that the parties wanted to carry out, the latter shall be governed by the regulations that would have applied had it been concluded without dissimulation, and its validity shall not be harmed by the nullity of the simulated transaction.
2. If, however, the dissimulated transaction has a formal nature, it can only be valid if the form required by law has been complied with.

ARTICLE 233
(Legitimacy to allege simulation)

1. Notwithstanding the provisions of Article 277, the nullity of the simulated transaction may be alleged by the simulators between themselves, even if the simulation is fraudulent.
2. Nullity may also be alleged by the legitimate heirs wanting to sue the author of the succession against simulated transactions performed with the intent to grieve them.

ARTICLE 234
(Effects of simulation towards bona fide third parties)

1. Nullity resulting from simulation may not be alleged by the simulator against a bona fide third party.
2. Bona fide means that simulation was ignored at the time when the respective rights were constituted.
3. Third parties having acquired the right after the simulation proceedings have been registered, whenever such registration is made, shall always be deemed to have acted in bad faith.

ARTICLE 235
(Mental reservation)

1. Mental reservation exists whenever a declaration is issued contrary to the actual will, with the intent to deceive the addressee.
2. Reservation shall not harm the validity of the declaration, if the addressee is aware of its existence. Otherwise the reservation has the effect of simulation.

ARTICLE 236

(Untrustworthy declarations)

1. An untrustworthy declaration, in the hope that its lack of trustworthiness is not unknown, shall produce no effects.

2. If however the declaration is made in such circumstances that the addressee is justifiably led to accept its trustworthiness, then he shall be entitled compensation for any loss that he suffers.

ARTICLE 237

(Unawareness of the declaration of intent and physical coercion)

The declaration shall produce no effect if the declarant is unaware that he made a declaration of intent, or has been physically coerced to make it. If however unawareness in the declaration is due to fault, then the declarant shall have the duty to compensate the addressee.

ARTICLE 238

(Mistaken declaration)

When, by virtue of mistake, the declared will does not correspond to the author's actual will, the declaration of intent is annullable, provided that the addressee knew, or should not ignore, that the mistaken part was essentially important for the declarant.

ARTICLE 239

(Validation of the transaction)

Possibility of cancellation due to mistake shall not apply if the addressee accepts the transaction according to the declarant's will.

ARTICLE 240

(Mistaken calculation or drafting)

Mere calculation or drafting mistakes evidenced in the context of the declaration, or the circumstances in which the declaration is made, allow only for the correction of such declaration.

ARTICLE 241

(Mistaken conveyance of the declaration)

1. If the declaration of intent is inaccurately conveyed by the person in charge of its conveyance, it can be annulled as laid down in Article 238.

2. When however such inaccuracy results from criminal intent of the intermediary, the declaration is annullable at all times.

ARTICLE 242

(Mistake regarding the person or the object of the transaction)

If the mistake affects the rationale behind the will, regarding the person of the addressee or the object of the transaction, such transaction becomes annullable as laid down in Article 238.

ARTICLE 243

(Mistake regarding the rationale)

1. Mistakes affecting the rationale behind the will, but not the person of the addressee or the object of the transaction, can only be the cause for annulment if the parties have agreed on the essentiality of the motif in writing.
2. If however such mistake affects the circumstances that constitute the basis of the transaction, the provision governing the dissolution or modification of the contract due to change in the conditions in force at the time of contract conclusion shall apply.

ARTICLE 244

(Criminal intent)

1. Criminal intent means any suggestion or ruse employed by somebody with the intent or notion of inducing error or maintaining in error the author of the declaration, as well as the dissimulation, by the addressee or a third party, of the declarant's error.
2. The commonly employed suggestions or ruses, considered legitimate in the current conception of transactions, shall not be deemed to constitute criminal intent. Nor will error dissimulation, when the law, legal stipulations or the conception of transactions impose no duty to provide clarification to the declarant.

ARTICLE 245

(Effects of criminal intent)

1. Any declarant whose will has been determined by criminal intent may annul the declaration. Annullability shall not be discarded just because the criminal intent is bilateral.
2. When criminal intent is originated by a third party, the declaration is annullable only if the addressee has (or should have) knowledge of it. If however any person has acquired any right by virtue of the declaration, the said declaration is annullable as regards the beneficiary – if he showed criminal intent, or knew it, or should have known it.

ARTICLE 246

(Moral coercion)

1. Moral coercion exists when the declarant made a declaration of intent for fear of a wrong of which he was unlawfully threatened to secure his or her declaration.
2. The threat may target the person or the honour or the assets of the declarant, or of a third party.
3. Neither threat to normally exercise a right nor mere reverential awe shall be deemed as coercion.

ARTICLE 247

(Effects of coercion)

A declaration of intent extorted by way of coercion is annullable, even if such coercion is exercised by a third party. In this case however the tort must be serious and the fear of its materialisation must be justified.

ARTICLE 248
(Accidental disability)
1. Any declaration of intent made by somebody who was accidentally unable, due to any cause, to understand its meaning, or could not freely exercise his or her will, is annullable, provided that the fact is clear to the addressee, or known by him.
2. A fact is clear when any average person could have noticed it.

SUBSECTION VI
Representation

PART ONE
General principles

ARTICLE 249
(Effects of representation)
A legal transaction performed by the agent on behalf of his or her principal, within the powers granted to him, produces its effects in the legal sphere of the latter.

ARTICLE 250
(Unwillingness or will-related faults and relevant subjective states)
1. Except for those elements in which the will of the principal has been decisive, unwillingness or will-related fault must be found in the person of the agent, as well as knowledge or ignorance of the facts that may impact on the effects of the transaction.
2. A principal acting in bad faith shall not benefit from a bona fide agent.

ARTICLE 251
(Justification of the powers of the agent)
1. If a person, on behalf of another person, addresses a declaration to a third party, the latter may require that the agent make proof of his or her powers within a reasonable deadline, or the declaration will produce no effects otherwise.
2. If the powers of representation are laid down in a document, the third party may request a copy of such document signed by the agent.

ARTICLE 252
(Transaction with oneself)
1. Any transaction performed by the agent with himself or herself, either in his or her own name or in representation of a third party, is annullable unless the principal has specifically agreed with it or the transaction excludes the possibility of conflict of interest due to its nature.
2. For the purpose of the foregoing paragraph, a transaction performed by the person who has been appointed a substitute agent is deemed to have performed by the agent himself or herself.

PART II
Voluntary representation

ARTICLE 253
(Power of attorney)

1. Power of attorney is the act whereby a person free-willingly gives powers of representation to another person.
2. Unless otherwise determined by law, the power of attorney shall have the form required for the transaction assigned to the proxy.

ARTICLE 254
(Legal capacity of the proxy)

The proxy strictly needs the capacity to understand and want required by the nature of the transaction assigned to him.

ARTICLE 255
(Substitution of the proxy)

1. The proxy can only be substituted by someone else if his or her principal allows him, or if the possibility of substitution results from the content of the power of attorney or the legal relationship that establishes it.
2. Substitution does not involve the exclusion of the original proxy, unless otherwise determined by declaration.
3. If the substitution is authorised, the proxy shall only be accountable to the principal if he acted with fault in the choice of his or her substitute, or in the instructions he gave him.
4. The proxy may seek the support of assistants to help him execute his or her power of attorney if no other solution results from the transaction or the nature of the act that he has to perform.

ARTICLE 256
(Extinguishment of the power of attorney)

1. The power of attorney is extinguished when the proxy renounces it, or when the legal relationship that originated it ceases to exist, unless the will of the principal, in this case, is different.
2. The power of attorney is freely revocable by the principal, notwithstanding any covenant in contrary or waiver to the right of revocation.
3. If however the power of attorney has also been granted in the interest of the proxy or of a third party, it is not revocable without prior agreement of the person concerned, save for a justa causa.

ARTICLE 257
(Protection of third parties)

1. Modifications to and revocation of the power of attorney should be reported to third parties by way of proper means, or they cannot be invoked when it is proven that they knew them at the moment of conclusion of the transaction.
2. The remaining causes for extinguishing the power of attorney cannot be invoked against any third party who ignored them without fault.

ARTICLE 258
(Return of the representation papers)
1. The agent should return the document containing his or her powers, as soon as the power of attorney expires.
2. The agent has no right to retain the document.

ARTICLE 259
(Representation without powers)
1. Any transaction without powers of representation conducted by a person on behalf of another person shall not be effective for the latter unless he ratifies it.
2. Ratification is subject to the form required by powers of attorney and its effectiveness is retroactive, safeguarding the rights of third parties.
3. Ratification is deemed denied, if it does not take place within the deadline set by the other party for this purpose.
4. Until the transaction is ratified the other party shall have the right to revoke it or reject it, save if, upon its conclusion, the said party was not aware that the agent had no powers.

ARTICLE 260
(Abusive representation)
Provisions of the foregoing article apply to cases in which the agent abused of his or her powers, if the other party had (or should have) knowledge of such abuse.

SUBSECTION VII
Condition and term

ARTICLE 261
(Concept of condition)
The parties may decide to make the effects of a legal transaction, or its resolution, depend upon an uncertain future event. In the first case, the condition is called suspensive. In the second, the condition is called resolutive.

ARTICLE 262
(Unlawful or impossible conditions)
1. Any legal transaction subject to a condition contrary to law or public order, or offending morality, shall be void.
2. Any transaction subject to a suspensive condition that is physically or legally impossible shall also be void. If it is a resolutive condition, it shall be deemed not written.

ARTICLE 263
(Pending condition)
Anyone undertaking an obligation or disposing of a right subject to a suspensive condition, or acquiring a right subject to a resolutive condition, should act according to bona fide rules while the condition is pending, so as to avoid compromising the full right of the other party.

ARTICLE 264

(Pending condition: conservatory acts)

Pending a suspensive condition, the buyer of the right may perform conservatory acts. The debtor or the conditional seller may also perform such acts pending a resolutive condition.

ARTICLE 265

(Pending condition: dispositive acts)

1. Dispositive acts concerning property or rights that constitute the object of the conditional transaction, performed while a condition is pending, shall be subject to the effectiveness or non-effectiveness of the transaction itself, unless stipulated otherwise.
2. If the goods disposed of must be returned, the provisions of Article 1189 and following articles shall apply, directly or by analogy, to bona fide holders.

ARTICLE 266

(Applicability and non-applicability of the condition)

1. Certainty that the condition cannot apply corresponds to its non-applicability.
2. If the applicability of the condition is impeded, against bona fide rules, by the person who loses from it, the condition is deemed applicable. If it is provoked, in the same terms, by the person who benefits from it, it is deemed not applicable.

ARTICLE 267

(Retroactivity of the condition)

The effects of the applicability of the condition are retroactive to the date of conclusion of the transaction, unless such effects are reported to a different date by will of the parties, or due to the nature of the act.

ARTICLE 268

(Non-retroactivity)

1. If the resolutive condition is included in a continuous or periodical execution contract, the provisions of Article 369 paragraph 2 shall apply.
2. Fulfilment of the condition does not invalidate the general management acts performed while the condition remains pending, by the party in charge of exercising the right.
3. The provisions regarding the acquisition of fruits by a bona fide holder shall apply to the acquisition of fruits by the party referred to in the foregoing paragraph.

ARTICLE 269

(Term)

If it is stipulated that the effects of the legal transaction begin or cease as from a given date, the provisions of Articles 263 and 264 shall apply to the stipulation, with the required adaptations.

ARTICLE 270

(Term calculation)

The following rules, in case of doubt, shall apply for calculating the term:

a) If the term refers to the beginning, the middle or the end of the month, this shall respectively mean the first day, the 15 and the last day of the month; if it refers to the beginning, the middle or the end of the year, this shall respectively mean the first day of the year, the 30 June and the 31 December;

b) The counting of any deadline shall not include the day or the hour at which occurs the event as from which the deadline starts counting, if it is an hour-based deadline;

c) Any deadline set in weeks, months or years, counting from a given date, expires at 24 hours of the day that corresponds to such date in the last week, month or year of the deadline; if there is no such corresponding day in the last month, then the deadline shall end on the last day of the said month;

d) Any deadline set for eight or fifteen days shall correspond respectively to one or two weeks and any deadline set for 24 or 48 hours shall correspond to one or two days;

e) Deadlines ending on a Sunday or a Holiday shall be transferred to the following working day. Legal holidays shall be equivalent to Sundays and holidays, if the act subject to a deadline has to be performed in court.

SECTION II

Object of the transaction. Usurary interest-bearing transactions

ARTICLE 271

(Requirements concerning the object of the transaction)

1. Any legal transaction whose object is physically or legally impossible, against the law or undeterminable shall be void.

2. Transactions contrary to public order, or offending morality, shall be void.

ARTICLE 272

(Purpose contrary to law or public order, or offending morality)

If only the purpose of the legal transaction is contrary to law or public order, or offending morality, the said transaction shall be void only if the purpose is common to both parties.

ARTICLE 273

(Usurary interest-bearing transactions)

1. Legal transactions are annullable, on grounds of usury, when a person takes advantage of the need, inexperience, irresponsibility, dependence, mental condition or weakness of character of another person and obtains, for himself or herself or a third party, the promise or the concession of excessive or unjustified benefits.

2. The special arrangement laid down in Articles 494 and 1066 is safeguarded.

ARTICLE 274
(Modification of usurary interest-bearing transactions)
1. Instead of annulment, the injured party may request that the transaction be modified in equitable terms.
2. When annulment is requested, the other party have the right to oppose the request and declare their acceptance to modify the terms of the transaction pursuant to the foregoing paragraph.

ARTICLE 275
(Criminal usury)
When the usurary transaction constitutes crime, the deadline for exercising the right to annulment or modification does not expire until the crime prescribes. If the criminal liability is extinguished, for any reason other than limitation of power to prosecute or a sentence in rem iudicatam passed in a criminal court of law, the said deadline shall start counting from the date of extinction of criminal liability, or the date of the sentence in rem iudicatam, unless counting must start at a later date by virtue of the provisions of Article 278, paragraph 1.

SECTION THREE
Nullity and annullability of the legal transaction

ARTICLE 276
(General provision)
In the absence of a special regulation, the provisions of the following articles shall apply to the nullity and annullability of legal transactions.

ARTICLE 277
(Nullity)
Nullity can be alleged at all times by any concerned person and may be, as a matter of procedure, declared by the court.

ARTICLE 278
(Annullability)
1. Annullability may be alleged only by those people whose interest is established by law and only within one year following the cessation of the fault that constituted grounds for the said annulment.
2. Annullability may none the less be alleged, irrespective of any deadline, both by way of action and exception, provided that the transaction has not been concluded.

ARTICLE 279
(Confirmation)
1. Annullability can be remedied by means of confirmation.
2. Confirmation must be made by the person who has the right to revoke and is only effective after the fault that constituted grounds for annullability has ceased to exist and its author has knowledge of the fault and of the right to revoke.
3. Confirmation can be express or tacit and does not depend on any special form.
4. Confirmation is retroactively effective, even vis-à-vis third parties.

ARTICLE 280

(Effects of the declaration of nullity and of annulment)

1. Both the declaration of nullity and the annulment of the transaction produce a retroactive effect. All that has been supplied must be returned and if the return in kind is not possible, then the corresponding value shall be paid.
2. If any party gratuitously disposed of anything that should be returned, and the return of the respective value cannot be actually made to the seller, then the buyer shall be liable in his or her place, but only to the extent of his or her enrichment.
3. The provision of Article 1189 and following articles shall apply to any of the cases laid down in the foregoing paragraphs, directly or by analogy.

ARTICLE 281

(Date of return)

Mutual return obligations of the parties by virtue of nullity or annulment of the transaction should be complied with simultaneously, the rules governing the exception of non-compliance with the contract being extensive to the case in the applicable part.

ARTICLE 282

(Effects of nullity or annulment towards bona fide third-party buyers)

1. Declaration of nullity or the annulment of the legal transaction concerning real property, or movable property subject to registration, does not diminish any rights paid for such property by a bona fide third-party buyer, if the acquisition was registered prior to the registration of the nullity or annulment action, or the registration of the agreement between the parties regarding the nullity of the transaction.
2. The rights of the third party however shall not be recognised if the action is proposed and registered within the three years following the conclusion of the transaction.
3. Any third-party buyer who, at the moment of the acquisition, ignored, without fault, that the transaction was void or annullable, is deemed bona fide.

ARTICLE 283

(Reduction)

Nullity or partial annulment does not require the invalidity of the entire transaction, unless it has been demonstrated that such act would not have taken place without the faulty part.

ARTICLE 284

(Conversion)

The void or annulled transaction can be converted into another transaction of a different kind or content, maintaining the essential requirements of substance and form, when the purpose aimed by the parties makes it possible to assume that they would have wanted it, if they had anticipated the invalidity.

ARTICLE 285

(Transactions performed against the law)

Transactions performed against imperative legal provisions shall be void, save in those cases in which a different solution results from the law.

CHAPTER II
Legal acts

ARTICLE 286
(Regulatory provisions)
Legal acts that are not legal transactions shall be governed, to the extent made possible by the analogy of the circumstances, by the provisions of the foregoing chapter.

CHAPTER III
Time and its impact on legal relationships

SECTION ONE
General provisions

ARTICLE 287
(Counting of deadlines)
Rules laid down in Article 270 shall apply, unless provided for otherwise, to the deadlines and terms established by law, by the courts or by any other authority.

ARTICLE 288
(Change in deadlines)
1. A law that establishes, for any effect, a deadline shorter than the deadline laid down in the foregoing law shall also apply to the ongoing deadlines. But the deadline shall only be counted as from the date of entry into force of the new law, unless there is less time left for the deadline to expire according to the old law.
2. The law which establishes a longer deadline shall also apply to the ongoing deadlines, but all the time elapsed since their initial moment shall be counted.
3. The doctrine of the foregoing paragraphs shall be extended, in its applicable part, to the deadlines established by the courts or by any authority.

ARTICLE 289
(Prescription, forfeiture and non-use of law)
1. Rights that are not unavailable or that the law does not declare exempt from prescription shall be subject to prescription, during the lapse of time established by the law.
2. When a right should be exercised within a given deadline, by virtue of law or by will of the parties, the rules of forfeiture shall apply, unless the law makes express reference to prescription.
3. Rights of ownership, usufruct, use and habitation, fee-farm, surface and easement do not prescribe but may be extinguished by non-use in those cases laid down in the law. The rules of forfeiture shall apply in those cases, unless provided for otherwise.

ARTICLE 290
(Change in qualification)
1. If the law qualifies as forfeiture a deadline defined as prescription by the foregoing law, or conversely, if it considers prescription deadline a case qualified as forfeiture deadline by the old law, the new qualification shall also apply to the ongoing deadlines.
2. In the first case however if the prescription is suspended or has been interrupted in the framework of the old law, neither the suspension nor the interruption shall be affected by the enforcement of the new law. In the second case the deadline may henceforth be suspended or interrupted in the general terms of prescription.

SECTION II
Prescription

SUBSECTION I
General provisions

ARTICLE 291
(Non-derogability of prescription arrangements)
All legal transactions shall be void which aim at modifying the legally-established prescription deadlines, or otherwise making easy or difficult the conditions in which prescription produces its effects.

ARTICLE 292
(Potential beneficiaries of prescription)
Prescription may benefit all those who can benefit from it, including incapacitated persons.

ARTICLE 293
(Prescription waiver)
1. Prescription waivers may be admitted only after the prescription deadline has elapsed.
2. Waivers may be tacit and do not require the beneficiary's acceptance.
3. Only the person who can make use of the benefit created by prescription has the legitimacy to waive prescription.

ARTICLE 294
(Alleging prescription)
No court can suppress prescription by virtue of its powers. In order to be effective, prescription must be judicially or extra-judicially alleged by the potential beneficiary, or his or her agent, or the Public Prosecution in the case of incapacitated persons.

Article 295
(Effects of prescription)
1. Once prescription is completed, the beneficiary has the power to refuse compliance with the consideration or to challenge, by any means possible, the exercise of the prescribed right.
2. A consideration spontaneously paid to comply with a prescribed obligation, even when it is made in ignorance of prescription, cannot be repeated. This arrangement shall apply to any form of fulfilment of the prescribed right, as well as to its recognition or the lodging of guarantees.
3. In the case of sales with lien until the payment of the price, if the credit of the price prescribes, the seller may, notwithstanding prescription, request the return of the property when the price has not been paid for.

Article 296
(Effects of prescription towards third parties)
1. Prescription can be alleged by creditors and third parties with a legitimate interest in its declaration, even if the debtor has renounced it.
2. If however the debtor has renounced, prescription can only be alleged by creditors if the Paulian impeachment requirements are met.
3. If the debtor is sued, but does not allege prescription and is sentenced, the judged case does not affect the right recognised to his or her creditors.

ARTICLE 297
(Start of the prescription term)
1. The prescription deadline starts running as from the moment when the right can be exercised. If however the prescription beneficiary is only compelled to comply within a given period after the interpellation, the prescription deadline will only start counting after that period.
2. The prescription of rights subject to suspensive condition will only begin after such condition is verified or the term has expired.
3. If it is stipulated that the debtor shall comply when he can, or that the deadline is left to the will of the debtor, prescription will only start running after his or her death.
4. If the debt is gross, prescription will start running as long as the creditor can promote its establishment; once it has been established, then the prescription of the net result will start running as long as it has been cleared by settlement or by sentence in rem iudicatam.

Article 298
(Periodical installments)
In case of perpetual or life annuity, or other similar periodical installments, the prescription of the creditor's unitary right starts running when payment of the first unpaid consideration is demanded.

Article 299
(Conveyance)
1. Once started, prescription will continue running, even if the right is conveyed to a new holder.
2. If the debt is taken by a third party, then prescription will continue running to their benefit, unless the transfer involves recognition of the prescription's interruption.

SUBSECTION II
Prescription deadlines

ARTICLE 300
(Ordinary deadline)
The ordinary prescription deadline lasts twenty years.

ARTICLE 301
(Five-year prescription)
The following debts shall have a five-year prescription:
a) Annuities from perpetual or life leases;
b) Rents owed by the lessee, even if they have been paid only once;
c) Tenures;
d) Conventional or legal interest, albeit gross, and corporate dividends;
e) Shares of capital amortisation payable with interest;
f) Alimony overdue;
g) Any other considerations that may be periodically renewed.

ARTICLE 302
(Rights recognised by sentence or writ of execution)
1. The right for whose prescription, albeit presumptive, the law establishes a deadline shorter than the ordinary deadline shall be subject to the latter, if recognised by sentence in rem iudicatam, or any other writ of execution.
2. When however the sentence of any other title makes reference to considerations yet not due, prescription shall remain the short-term prescription as regards such considerations.

SUBSECTION III
Presumptive prescriptions

ARTICLE 303
(Grounds for presumptive prescriptions)
Prescriptions dealt with in this subsection are based on the presumption of compliance.

ARTICLE 304
(Debtor admission)
1. The presumption of compliance with the deadline may only be disproved by admission of the original debtor or the person whom the debt has been conveyed by succession.
2. Extrajudicial admission shall only be valid in writing.

ARTICLE 305
(Tacit admission)
Debt shall be considered admitted if the debtor refuses to testify or take an oath in court, or if he commits acts in court that are incompatible with the presumption of compliance.

ARTICLE 306
(Enforcement of general rules)
Obligations subject to presumptive prescription shall be subordinated, in general terms, to the rules of ordinary prescription.

ARTICLE 307
(Six-month prescription)
Credits held by lodging and food & beverage establishments, in connection with lodging, food and beverage they have supplied, shall prescribe within six months, unless otherwise provided for in the next article, paragraph a).

ARTICLE 308
(Two-year prescription)
Two-year prescription shall apply to:
a) Credits held by establishments supplying lodging, or lodging and food to students, as well as credits held by training, education, assistance or care-providing establishments in connection with services provided;
b) Credits held by merchants in connection with objects sold to non-merchants, or not destined for trade, as well as credits held by entities professionally engaged in industrial activities, supply of goods or products, execution of works or the management of third-party businesses, including expenses made, unless the consideration is destined for paying the debtor's industrial exercise;
c) Credits held for services provided by independent professionals, or for the refund of the respective expenses.

SUBSECTION IV
Suspension of prescription

ARTICLE 309
(Bilateral causes of suspension)
Prescription does not start nor run:
a) Between spouses, even if judicially separated in persons and assets;
b) Between persons exercising parental authority and persons subject to them, between guardians and minors, or between trustees and interdicted persons;
c) Between persons whose assets are subject to, by law or by judicial or third-party decision, the management of other persons and those persons managing such assets, until the final accounts are approved;
d) Between legal persons and the respective board members, as regards the latter's accountability for the exercise of their offices, as long as they hold them;
e) Between domestic employees and their bosses, for the duration of the contract;
f) As long as the debtor holds the usufruct of the credit or the right to pledge it.

ARTICLE 310
(Suspension benefiting military personnel and people attached to military forces)
Prescription does not start or run against active servicemen, in time of war or mobilisation, inside or outside the Country, or against people who, for reasons of service, are attached to the armed forces.

ARTICLE 311

(Suspension in favour of minors, disabled or incapacitated persons)

1. Prescription does not start or run against minors until they have someone who represents them or manages their assets, save those acts which the minor can perform; also, even if the minor has a legal representative or someone who manages his or her assets, prescription against him shall not finish before one year counted as from the end of his or her inability.
2. In case of presumptive prescriptions, prescription is not suspended but it does not end before one year has elapsed since the date in which the minor began to have a legal representative or an manager of his or her assets, or became fully capable.
3. The provisions in the foregoing paragraphs shall apply to disabled or incapacitated persons who cannot exercise their right, unless the disability is considered finished, if it has not ceased before, three years after the term of the deadline which would apply if the suspension had not taken place.

ARTICLE 312

(Suspension by virtue of force majeure or criminal intent of the liable person)

1. Prescription is suspended while the holder is prevented from exercising his or her right by virtue of force majeure, in the last three months of the deadline.
2. If the holder has not exercised his or her right due to criminal intent of the liable person, the provisions of the foregoing paragraph shall apply.

ARTICLE 313

(Prescription of rights of the inheritance or against it)

Prescription of rights of the inheritance, or against it, shall not take full effect before six months, after there is a person by whom or against whom such rights may be alleged.

SUBSECTION V

Interruption of prescription

ARTICLE 314

(Interruption on initiative of the holder)

1. Prescription shall be interrupted by judicial summons or notification of any act that directly or indirectly expresses the intention to exercise the right, whichever the case to which the act belongs and even if the court is incompetent.
2. If the summons or notification is not made within five days after its request, due to cause not ascribable to the applicant, the prescription is deemed immediately interrupted as soon as those five days have elapsed.
3. Annulment of the summons or the notification does not prevent the interruptive effect laid down in the foregoing paragraphs.
4. Any other judicial means capable of informing of the act the person against whom the right can be exercised is considered equivalent to the summons or the notification.

ARTICLE 315
(Award by arbitration)
1. Award by arbitration shall interrupt prescription in connection with the right intended to become real.
2. If there is an arbitration clause, or the award by arbitration is determined by law, the prescription is deemed interrupted in any of the cases laid down in the foregoing article.

ARTICLE 316
(Recognition)
1. Prescription is also interrupted by the recognition of the right, made by the respective holder before the person against whom such right can be exercised.
2. Tacit recognition is only relevant when it results from facts that express it beyond doubt.

ARTICLE 317
(Effects of the interruption)
1. Interruption renders non-usable for prescription purposes all the time previously elapsed and a new deadline will start running as from the interruptive act, unless otherwise provided for in the following article, paragraphs 1 and 3.
2. The new prescription shall be subjected to the deadline of the original prescription, unless otherwise provided for in Article 302.

ARTICLE 318
(Duration of the interruption)
1. If interruption results from summons, notification or similar act, or from arbitration award, the new prescription deadline will not start running before the case has a sentence in rem iudicatam.
2. Nevertheless in case of waived proceedings or acquittal, or when no-one accompanies the suit, or the arbitration award is without effect, the new prescription deadline shall start running immediately after the interruptive act.
3. If due to procedural reasons not ascribable to the holder of the right the defendant is acquitted, or the arbitration award is without effect, and the prescription deadline has meanwhile ended or ends in the two months immediately following the sentence in rem iudicatam, or the occurrence of the fact that has rendered the award ineffective, the prescription will not be considered completed before the said two months have elapsed.

SECTION III
Forfeiture

ARTICLE 319
(Suspension and interruption)
Forfeiture deadlines shall not be suspended or interrupted, save in those cases determined by law.

ARTICLE 320
(Start of deadline)
The forfeiture deadline, unless the law establishes a different date, starts running at the moment in which the right can be legally exercised.

ARTICLE 321
(Valid stipulations concerning forfeiture)
1. Transactions that create special cases of forfeiture, or modify its legal scheme, or waive forfeiture, shall be valid, provided that they do not deal with matters subtracted from the availability of the parties, or fraud against the legally-established rules of prescription.
2. In case of doubt about the will of the parties, provisions governing the suspension of prescription shall apply to conventional cases of forfeiture.

ARTICLE 322
(Causes impeding forfeiture)
1. Forfeiture can only be impeded by an act, performed within the legal or conventional deadline, deemed by law or covenant to have an impeding effect.
2. In case of a contractually established deadline, or a legal provision governing an available right, forfeiture is also impeded by the recognition of the right by the party against whom such right should be exercised.

ARTICLE 323
(Acquittal and interruption of proceedings and of arbitration award inefficacy)
1. When forfeiture concerns the right to file a given suit in court and the said suit has been timely proposed, Article 318 paragraph 3 shall apply. If however the deadline established for forfeiture is lower then two months, then the deadline mentioned in the said provision shall replace it.
2. In the cases foreseen in the first part of the foregoing article, if the proceedings have been interrupted, the time elapsed from the filing of the suit and the interruption of the proceedings shall not be counted for the purpose of forfeiture.

ARTICLE 324
(Unofficial appraisal of forfeiture)
1. The court shall, as a matter of procedure, appraise forfeiture, which can be alleged at any stage in the process if it is established for matters excluded from the availability of the parties.
2. If forfeiture is established for matters not excluded from the availability of the parties, then the provisions of Article 294 shall apply to it.

SUBTITLE IV
ON THE EXERCISE AND MANAGEMENT OF RIGHTS

ARTICLE 325
(Abuse of rights)
The exercise of a right shall be deemed illegitimate when its holder clearly exceeds the limits imposed by good faith, morality or the social or economic purpose of such right.

ARTICLE 326
(Collision of rights)
1. If there is collision of equal rights, or rights of the same kind, then the holders should yield to the extent possible so that they all equally produce the same effect, without major detriment to any party.
2. If the rights are unequal, or of a different kind, then the right that should be considered superior shall prevail.

ARTICLE 327
(Direct action)
1. Force can be lawfully used to materialise or ensure one's own rights, when direct action is indispensable, as it is impossible to timely resort to the usual coercive means to prevent such right from becoming useless in practice, as long as the agent does not exceed the necessary means to avoid the loss.
2. Direct action may consist in appropriating, destroying or deteriorating a thing, eliminating resistance irregularly opposed to the exercise of a right, or any other similar act.
3. Direct action is not lawful when it sacrifices interests of superior importance than those that the agent wants to materialise or ensure.

ARTICLE 328
(Legitimate defence)
1. Acts aimed at avoiding any actual unlawful assault against the person of assets of the agent or a third party are justified, as long as it is not possible to secure this by the usual means and the damage caused by such acts does not clearly exceed what could result from the assault.
2. Acts are also justified, even when legitimate defence is excessive, if the excess is due to disturbance or non-faulty fear of the agent.

ARTICLE 329
(Erroneous assumptions of direct action or legitimate defence)
If the holder of a right takes action erroneously supposing that the assumptions that justify direct action or legitimate defence exist, he must pay compensation for the damage caused, unless the error is excusable.

ARTICLE 330
(State of necessity)
1. The action taken by someone who destroys or damages other people's assets with a view to eliminating the actual danger of a clearly more serious damage, from either the agent or a third party, is lawful.
2. The author of destruction or damage shall none the less have the obligation to pay compensation to the injured party for the loss incurred, if the danger was exclusively caused by his or her fault. In any other case, the court may establish an equitable compensation and condemn not only the agent but also all those who benefited from the act, or contributed to the state of necessity.

ARTICLE 331
(Consent of the injured party)
1. Any act causing injury to someone else is lawful if the said person consented in the injury.
2. Consent of the injured party does not preclude the unlawfulness of the act, however, when such act infringes a legal interdiction or goes against morality.
3. The injury is deemed consented when it benefited the interest of the injured party and occurred in agreement with their presumable will.

BOOK II
LAW OF OBLIGATIONS

TITLE I
ON OBLIGATIONS IN GENERAL

CHAPTER I
General provisions

SECTION I
Contents of the obligation

ARTICLE 332
(Concept)
Obligation is the legal bond by virtue of which a person is bound to render a consideration to someone else.

ARTICLE 333º
(Contents of the consideration)
1. The parties may freely establish, within the law, the positive or negative contents of the consideration.
2. The consideration does not have to be valuable, but it should correspond to an interest of the creditor, worthy of legal protection.

ARTICLE 334
(Consideration for future things)
Consideration for future things is admitted, whenever the law does not forbid it.

ARTICLE 335
(Determining the consideration)
1. Determination of the consideration may be entrusted to one of the parties, or to a third party. In any case the consideration should be determined according to equitable criteria, if no other criteria have been stipulated.
2. If the consideration cannot be determined, or has not been determined in due time, it shall be determined by a court of law, without prejudice to the provisions concerning general and alternative obligations.

ARTICLE 336
(Original impossibility of the consideration)
1. The original impossibility of the consideration produces the nullity of the legal transaction.
2. Transactions will however remain valid if the obligation is incurred for the case in which the consideration becomes possible, or if, the act depending upon suspensive condition or initial term, the consideration becomes possible up to the moment in which the condition is verified and the term matures.
3. Only the consideration that is impossible as regards the object is considered impossible, not only as regards the person of the debtor.

SECTION II
Natural obligations

ARTICLE 337
(Concept)
An obligation is called natural when it results from a mere duty of moral or social order, whose compliance is not judicially demandable but corresponds to a duty of justice.

ARTICLE 338
(Non repetition of the undue)
1. Any consideration spontaneously rendered to comply with a natural obligation cannot be repeated, save if the debtor is not capable of rendering the consideration.
2. Consideration is considered spontaneous when it is exempt from any coercion.

ARTICLE 339
(System)
Natural obligations are subject to the system of civil obligations in all regards not related with the coercive rendering of the consideration, unless the law makes any special provisions.

CHAPTER II
Sources of the obligations

SECTION I Contracts

SUBSECTION I
General provisions

ARTICLE 340
(Contractual freedom)
1. Within the limits of the law, the parties have the ability to freely establish the contents of their contracts, draw up contracts different from those defined in this code or include in the said contracts the clauses that they may want.
2. The parties can also merge in the same contract the rules governing two or more transactions, fully or partially regulated in the law.

ARTICLE 341

(Effectiveness of contracts)

1. Contracts should be timely complied with and may only be modified or extinguished by mutual consent of the parties, or in the cases admitted by law.
2. Contracts only produce effects regarding third parties in those cases and terms specifically established by law.

ARTICLE 342

(Incompatibility among personal rights of enjoyment)

When successive contracts create, for the benefit of different persons but regarding the same thing, personal rights of enjoyment incompatible with one another, the oldest right in terms of date shall prevail, notwithstanding the rules specific to registration.

ARTICLE 343

(Contracts with real efficacy)

1. The creation and transfer of real rights over a given thing is considered a mere effect of the contract, save the exceptions set forth in the law.
2. If the transfer concerns a future or undetermined thing, the right is transferred when the thing is acquired by the seller or determined with the knowledge of both parties, safeguarding the provisions governing general obligations and contracts for works. If however the said transfer concerns natural fruits or parts composing or integrating a whole, the transfer shall only take place at the moment of collection or separation.

ARTICLE 344

(Lien)

1. In sale contracts the seller can lawfully retain the ownership of the property until the other party have totally or partially lived up to their obligations, or any other event occurs.
2. In case of property or movables subject to registration, only the clause written in the register may be opposed to third parties.

SUBSECTION III
Promised contract

ARTICLE 345
(Applicable arrangements)

1. The legal provisions governing the promised contract shall apply to any covenant whereby someone undertakes to sign a given contract, save those provisions regarding form and those that, due to their raison d'être, should not be deemed extensive to the promised contract.
2. Nevertheless the promise regarding the signature of a contract for which the law requires a document, be it authentic be it private, is only valid in writing, as part of a document signed by the bound party or by both, depending on whether the promised contract is unilateral or bilateral.
3. In case of a promise concerning the signature of a valuable contract for the creation or transfer of a real right over a building, or part of it, already built or under construction or to be built, the document referred to in the foregoing paragraph should contain the signature of the promising person or persons certified in their presence by notary-public and the latter's certification of the respective license for use or construction. Nevertheless the party who promises to transfer or create the right may only allege the omission of these requirements, when the said omission has been caused by the other party with fault.

ARTICLE 346
(Unilateral promise)

If the promised contract only binds one of the parties and does not set forth the deadline within which the bond is effective, the court may, at the request of the promising person, establish for the other party a deadline for the exercise of the right, after which the said right will forfeit.

ARTICLE 347
(Transfer of rights and obligations of the parties)

1. Rights and obligations resulting from a promised contract that are not exclusively personal will be conveyed to the successors of the parties.
2. Transfer by act among living parties is subject to the general rules.

ARTICLE 348
(Real efficacy of the promise)

1. The parties may bestow real efficacy on the transfer or creation of real rights over property, by express declaration and registration on the records.
2. The promise whereby the parties bestow real efficacy should be contained in a public deed. Nevertheless when the law does not require such form for the promised contract, a private document bearing the certified signature of the bound party, or both parties, will suffice, depending on whether the promised contract is unilateral or bilateral.

SUBSECTION III
Preference pacts

ARTICLE 349
(Concept)

Pacts of preference are covenants whereby someone undertakes the obligation of giving preference to someone else in the sale of a given thing.

ARTICLE 350
(Form)

The provisions of Article 345, paragraph 2, shall apply to preference pacts.

ARTICLE 351
(Knowledge by the preferring party)

1. If he wishes to sell the thing that is the object of the pact, the liable person should communicate to the holder of the right the projected sale and the clauses of the respective contract.
2. Upon receipt of the communication, the holder should exercise his or her right within the eight-day deadline or otherwise it will forfeit, save it is bound by a shorter deadline or the preferring party assign him a longer deadline.

ARTICLE 352
(Sale of the property together with other things)

1. If the liable person wishes to sell the property together with other things, for a global price, the right can be exercised regarding the property for a price that is proportionately assigned to it. The liable person may lawfully require that the preference is extended to all other things, if they are not separable without considerable loss.
2. The provisions of the foregoing paragraph are applicable to the case in which the right of preference has real efficacy and the property has been sold to a third party together with other things.

ARTICLE 353
(Accessory consideration)

1. If the liable person receives from a third party the promise of an accessory consideration that the holder of the right of preference cannot pay, such consideration shall be offset in cash. If it cannot be assessed in cash, the preference is excluded, unless it can be lawfully assumed that, even without the stipulated consideration, the sale would be made anyway, or that the consideration was agreed to discard the preference.
2. If the accessory consideration has been agreed to discard the preference, the preferring party is not obliged to pay for it, even if it can be assessed in cash.

ARTICLE 354
(Multiple holders)
1. If the right of preference belongs simultaneously to multiple holders, it can only be exercised by all of them together. If however the right is extinguished regarding any of them, or any of them declares that he will not exercise it, his or her right shall add up to the right of the remainder.
2. If the right belongs to more than one holder, but should be exercised by only one of them, in the absence of designation all shall be called to bid and the surplus will revert to the seller.

ARTICLE 355º
(Transfer of the right and the obligation of preference)
The right and the obligation of preference are not transferable in life or upon death, unless otherwise provided for.

ARTICLE 356
(Real efficacy)
1. The right of preference may, by agreement between the parties, benefit from real efficacy if, as regards property or movables subject to registration, the requirements of form and advertising demanded in Article 348 are met.
2. The provisions of Article 1330, with the necessary adaptations, shall apply in this case.

ARTICLE 357
(Relative value of the right of preference)
The conventional right of preference does not prevail against the legal rights of preference. If it does not have real efficacy, it shall not also prevail against sale in execution, bankruptcy, insolvency or similar cases.

ARTICLE 358
(Extension of the foregoing provisions to other contracts)
The provisions governing sales in the foregoing articles can be extended, in their applicable part, to the obligation of preference having other contracts compatible with it as object.

SUBSECTION IV
Assignment of contractual position

ARTICLE 359
(Concept. Requirements)
1. In contracts with mutual considerations, any party has the ability to assign their contractual position to third parties, provided that the other party consent in the said transfer prior to, or after, the signature of the contract.
2. If the other party express their consent prior to the assignment, such assignment shall only produce effects after its notification or recognition.

ARTICLE 360
(Arrangements)
The form of transfer, the ability to dispose and receive, unwillingness and will-related faults and the relationships between the parties are defined as a function of the kind of transaction that is at the root of the assignment.

ARTICLE 361
(Guaranteed existence of the contractual position)
1. At the moment of the assignment, the assignor ensures the assignee that the assigned contractual position exists, in the terms applicable to the (non-valuable or valuable) transaction in which the assignment is incorporated.
2. The guarantee concerning compliance with the obligations shall only exist if it is agreed upon in the general terms.

ARTICLE 362
(Relationships between the other party and the assignee)
The other party to the contract have the right to oppose the assignee the means of defence resulting from such contract, but not the means resulting from other relationships with the assignee, unless they reserved their use upon consenting in the assignment.

SUBSECTION V
Exception of non compliance with the contract

ARTICLE 363
(Concept)
1. If bilateral contracts do not establish different deadlines governing compliance with considerations, each party have the ability to refuse his or her consideration until the other party comply with theirs, or propose to comply with it simultaneously.

2. This exception cannot be waived by rendering guarantees.

ARTICLE 364
(Insolvency or diminished guarantees)
Even if he has the obligation to comply with firstly, the party have the ability to refuse the respective consideration until the other party comply with, or give guarantees of compliance, if, subsequent to the contract, any circumstances involving the loss of the deadline benefit occur.

ARTICLE 365
(Prescription)
If one of the rights prescribes, the respective holder shall continue to benefit from the exception of non compliance, except in case of presumptive prescription.

ARTICLE 366
(Efficacy with regard to third parties)
The exception of non compliance can be opposed to those who replace any party as regards their rights and obligations pursuant to the contract.

SUBSECTION VI
Contract dissolution

ARTICLE 367
(Cases in which it is admitted)

1. Contract dissolution based on the law or a covenant is admitted.
2. Any party however who, due to circumstances not ascribable to the other party, cannot return what they have received shall not have the right to dissolve the contract.

ARTICLE 368
(Effects between the parties)

In the absence of special provisions, dissolution is deemed equivalent, as to its effects, to the nullity or annullability of the legal transaction, save the provisions of the following articles.

ARTICLE 369
(Retroactivity)

1. Dissolution has a retroactive effect, unless retroactivity contradicts the will of the parties or the purpose of dissolution.
2. In continuously or periodically executed contracts, dissolution does not cover the considerations already rendered, unless such considerations and the cause for dissolution are linked by a bond that legitimises the dissolution of them all.

ARTICLE 370
(Effects with regard to third parties)

1. Dissolution, even if expressly agreed upon, does not diminish the rights acquired by third parties.
2. Registering however a dissolution action concerning property or movables subject to registration shall render the right of dissolution opposable to a third party who have not registered their right before the action has been registered.

ARTICLE 371
(How and when is dissolution materialised)

1. A contract can be dissolved by way of declaration made to the other party.
2. If no deadline has been agreed for contract dissolution, the other party may assign to the holder of the dissolution right a reasonable deadline to exercise it, or otherwise forfeit it.

SUBSECTION VII
Contract dissolution or modification due to changed circumstances

ARTICLE 372
(Conditions for admissibility)
1. If the circumstances on which the parties based their decision to contract are abnormally changed, the injured party have the right to dissolve the contract, or to modify it in the light of equitable considerations, to the extent that demanding that the obligations undertaken by such party be honoured may seriously harm the principles of good faith and is not covered by the risks inherent in the contract.
2. Once the dissolution has been requested, the contrary party may oppose the request, declaring to accept a modification of the contract according to the foregoing paragraph.

ARTICLE 373
(Injured party in default)
The injured party shall not benefit from the right of contract dissolution or modification if they were in default at the moment in which the circumstances changed.

ARTICLE 374
(Arrangements)
Once the contract has been dissolved, the provisions of the foregoing subsection shall apply to dissolution.

SUBSECTION VIII
Compliance in advance; Down payment

ARTICLE 375
(Compliance in advance)
If, upon the signature of the contract or subsequently, one of the parties gives the other party something that matches, in part or in full, the consideration to which they are obliged, this delivery is considered as total or partial compliance in advance, unless the parties wish to attribute to the delivered thing the quality of down payment.

ARTICLE 376
(Promised contract of sale)
In promised contracts of sale one assumes that any amount rendered by the promised seller to the promised buyer has the quality of down payment, even if titled as upfront or initial payment of the price.

ARTICLE 377
(Down payment)
1. When down payment is made, the rendered amount should be ascribed to the consideration due, or returned when such ascription is not possible.
2. If the person who makes the down payment does not comply with the obligation due to cause ascribable to her, the other party can retain as their own the rendered amount. If non compliance with the contract is due to the latter, then the former can ask for the rendered amount in double, or, if the property mentioned in the promised contract has been transferred, he can ask for its value, or that of the right to be transferred or created over such property, objectively established on the date of non compliance with the promise, after deduction of the agreed price. The down payment and the part of the price that he has paid for should also be returned to him.
3. In any of the cases anticipated in the foregoing paragraph, the non-faulty party may, as an alternative, request the specific execution of the contract pursuant to Article 765 . If the non-faulty party choose to increase the value of the property or of the right, as laid down in the foregoing paragraph, the other party can oppose the exercise of such ability, volunteering to comply with the promise, save the provisions of Article 742 .
4. Unless otherwise stipulated, no other compensation shall be paid for non compliance with the contract, in the cases of loss of the down payment or of its payment in double, or of the value increment of the property or the right on the date of non compliance.

SUBSECTION IX
Contract benefiting a third party

ARTICLE 378
(Concept)
1. By way of a contract, one of the parties may undertake before another party the obligation of rendering a consideration benefiting a third party unrelated with the transaction. The party that undertake the obligation are called promising party and the party whom the promise is made to are called performing party.
2. By contract benefiting a third party, the parties also have the possibility of remitting debts or assigning credits, as well as of creating, modifying, transferring or extinguishing real rights.

ARTICLE 379
(Rights of the third party and of the performing party)
1. The third party in whose benefit the promise is agreed shall acquire the right to the consideration, irrespective of their acceptance.
2. The performing party also has the right to demand compliance with the promise from the promising party, unless the parties have otherwise expressed their will.
3. When there is a promise to exonerate the performing party of a debt towards a third party, only the former has the right to demand compliance with the promise.

ARTICLE 380

(Considerations benefiting an undetermined person)

If the consideration is stipulated for benefiting an undetermined set of persons, or public interest, the right to claim it belongs not only to the performing party and their heirs, but also to the authorities competent for defending the public interests at stake.

ARTICLE 381

(Rights of the heirs of the performing party)

1. Neither the heirs of the performing party nor the entities mentioned in the foregoing article can dispose of the right to consideration or authorise any modification of its object.
2. When it is impossible to render the consideration for cause ascribable to the promising party, the heirs of the performing party, as well as the authorities competent to claim compliance with the consideration, have the right to claim the corresponding compensation for the agreed purposes.

ARTICLE 382

(Rejection or adherence by the third-party beneficiary)

1. The third party may reject or adhere to the promise.
2. Rejection is performed by way of declaration addressed to the promising party, which should communicate it to the performing party. If the former fails to do so with fault, he shall be accountable to the latter.
3. Adhesion is performed by way of declaration, addressed both to the promising party and the performing party.

ARTICLE 383

(Revocation by the parties)

1. Unless otherwise stipulated, the promise shall be revocable as long as the third party do not express their adhesion, or as long as the performing party is alive, when such promise must be fulfilled following the latter's death.
2. The right of revocation belongs to the performing party. If however the promise was made in the interest of both parties, the revocation shall depend upon the promising party's consent.

ARTICLE 384

(Means of defence usable by the promising party)

The promising party can oppose to the third party all means of defence resulting from the contract, but not those that result from a different relationship between the promising party and the performing party.

ARTICLE 385

(Relationships between the performing party and persons unrelated with the benefit)

1. The rules applicable to the collation, ascription and reduction of donations, as well as those governing the Paulian impeachment, shall apply only to the contribution of the performing party to the consideration performed to a third party.
2. If a third party is designated on the grounds of liberality, the rules governing revocation of donations due to ungratefulness of the donee shall apply with the adaptations required.

ARTICLE 386
(Promise to be fulfilled after the death of the performing party)
1. If the consideration to a third party is to be performed after the death of the performing party, it is assumed that the third party will acquire the right to it only after the latter's death.
2. If however the third party dies before the performing party, his or her heirs shall be called in his or her place as holders of the promise.

SUBSECTION X
Contract on behalf of person to be appointed

ARTICLE 387
(Concept)
1. Upon signature of the contract, one of the parties may retain the right to appoint a third party that will acquire the rights and accept the obligations pursuant to such contract.
2. Such reserved appointment is not possible in those cases in which representation is not admitted, or the determination of the parties is indispensable.

ARTICLE 388
(Appointment)
1. Appointment shall be made by declaration in writing issued to the other party, within the agreed deadline or, in the absence of any covenant, within the five days following contract signature.
2. The declaration of appointment should be accompanied, or else run the risk of inefficacy, by the instrument of contract ratification, or by a power of attorney issued before the contract is signed.

ARTICLE 389
(Form of ratification)
1. Ratification should be made in a written document.
2. If however the contract has been signed in the form of stronger documentary evidence, then the ratification must have the same form.

ARTICLE 390
(Effects)
1. If the declaration of appointment is drafted according to Article 388, the appointed person will acquire the rights and take the obligations resulting from the contract as from its signature.
2. If the declaration of appointment is not legally drawn up, the contract shall produce its effects with regard to the original party, unless otherwise stipulated.

ARTICLE 391
(Publicity)
1. If the contract is subject to registration, it may be drawn up in the name of the original party, with indication of the clause for person to be appointed. The required modifications will be subsequently added.
2. The provisions laid down in the foregoing paragraph are applicable to any other form of publicity to which the contract is subject.

SECTION II
Unilateral transactions

ARTICLE 392
(General principle)

The unilateral promise of a consideration is only binding in the cases set forth in the law.

ARTICLE 393
(Promise to comply and acknowledgement of debt)

1. If a person, by plain unilateral declaration, promises a consideration or acknowledges a debt, without indicating the respective cause, the creditor shall be exempted from proving the fundamental relationship, whose existence is presumed until otherwise proven.
2. The promise or acknowledgment shall however be made in writing, if no other formalities are required for proving the fundamental relationship.

ARTICLE 394
(Public promise)

1. Any person who, by public announcement, promises a consideration to someone who is in a given situation or performs a given (positive or negative) fact shall be immediately bound to the said promise.
2. Unless otherwise declared, the promising party remains obliged also before those who were in the anticipated situation or performed the fact without considering the promise, or ignoring it.

ARTICLE 395
(Expiry date)

A public promise made without a deadline determined by the promising party, or imposed by nature or by the purpose of the promise, remains valid until it is revoked.

ARTICLE 396
(Revocation)

1. A public promise without expiry date can be revoked at all times by the promising party. If it has a deadline, it is only revocable on fair ground.
2. In any case the revocation has no efficacy if it is not performed in the form of the promise, or an equivalent form, or if the anticipated situation has already occurred, or the fact has already been performed.

ARTICLE 397
(Co-operation among several persons)

If several persons have co-operated to produce the anticipated result, together or in separate, and all of them have the right to the consideration, this shall be equitably shared, taking into account the relative contribution of each person to the said result.

ARTICLE 398
(Public contest)
1. The offer of the consideration as a prize in a contest is only valid when the deadline for the competitors to apply is publicly announced.
2. Decision on the admission of competitors, or the grant of a prize to any of them, belongs to the people appointed in the public announcement or, if there is no appointment, to the promising party.

SECTION III
Business management

ARTICLE 399
(Concept)
Business management exists when a person starts running the business of another person in the interest and on behalf of the respective owner, without having the authorisation for it.

ARTICLE 400
(Duties of the manager)
The manager should:
a) Abide by the interest and will, real or presumable, of the business owner, whenever such will is not against the law or public order, or offensive to morality;
b) Warn the owner of the business, as soon as possible, that he took up management;
c) Render accounts, once the business is finished or the management is interrupted, or when the owner requires them;
d) Provide the owner with all the information concerning his or her management;
e) Deliver to him everything he has received from third parties when he was active as manager, or the balance of the respective bank accounts, with their legal interest, regarding the amounts in cash, as from the moment in which the delivery has to be made.

ARTICLE 401
(Responsibility of the manager)
1. The manager shall be accountable to the business owner both for the damage he causes, due to his or her fault, during his or her period of activity as manager, and for the damage caused due to any unjustified interruption of the said management.
2. The manager's performance shall be deemed faulty when he acts against the interest and will, real or presumable, of the business owner.

ARTICLE 402
(Joint liability of managers)
If two or more managers have acted together, they shall be jointly liable to the business owner.

ARTICLE 403

(Obligations of the business owner)

1. If management has been exercised abiding by the interest and will, real or presumable, of the business owner, the latter is obliged to refund the manager of all expenses proved to be indispensable, plus legal interest counted as from the moment in which such expenses were made, and to compensate him for the loss incurred.
2. If management was not exercised in the terms of the foregoing paragraph, the business owner shall be liable only according to the rules of unjust enrichment, save the provisions of the following article.

ARTICLE 404

(Approving the management)

Approving the management implies a waiver to the right of compensation for damage incurred due to the manager's fault and is equivalent to recognising the rights granted to the said manager pursuant to Article 403, paragraph 1.

ARTICLE 405

(Remuneration of the manager)

1. Management entails no entitlement to remuneration, unless it corresponds to the professional activity of a manager.
2. In this case, remuneration shall be established according to the provisions of Article 1078, paragraph 2.

ARTICLE 406

(Representation without powers and agency without representation)

Save the provisions of the foregoing articles concerning the relationships between the manager and the owner of the business, the provisions of Article 259 shall apply to the legal transactions performed by the former on behalf of the latter. If the manager performs them in his or her own name, the provisions ruling agency without representation can be extended to such transactions, in their applicable part.

ARTICLE 407

(Management of another person's business assuming that it is one's own)

1. If a person manages the business of another person assuming that it belongs to her, the provisions of this section will only apply if the management is approved. In any other circumstances, the rules governing unjust enrichment shall apply, save other provisions that may apply to the case.
2. If the manager is faulty in breaching the other person's right, the rules of civil liability shall apply to the case.

SECTION IV
Unjust enrichment

ARTICLE 408
(General principle)

1. Any person who, without justifying cause, becomes rich at the expense of another person is obliged to return all things that were unjustly retained.
2. The special object of the obligation to return, for unjust enrichment, is the thing unduly received, or which was unduly received by virtue of a cause that ceased to exist, or aiming an effect that was not produced.

ARTICLE 409
(Subsidiary nature of the obligation and absence of the envisaged result)

1. Return on grounds of enrichment shall not take place when the law provides the impoverished person another means of seeking compensation or return, denies the right to return or attributes other effects to enrichment.
2. Return shall not take place either if, when performing the consideration, the author knew that the effect envisaged with such consideration was impossible, or if, acting against good faith, he prevented such effect from being produced.

ARTICLE 410
(Repetition of the undue)

1. Save the provisions governing natural obligations, the performed consideration with the intention of fulfilling an obligation may be repeated, if such obligation did not exist when such consideration was performed.
2. Consideration performed to a third party may be repeated by the debtor, as long as it does not become a withholding consideration pursuant to Article 704 .
3. Consideration performed due to excusable fault before the obligation is due only originates a repetition of the thing which enriched the creditor due to the effect of payment in advance.

ARTICLE 411
(Fulfillment of another person’s obligation assuming that it is one’s own)

1. The person who, due to excusable mistake, fulfills another person’s obligation assuming that it is its own, benefits from the right of repetition, unless the creditor, unaware of the mistake committed by the author of the consideration, has deprived himself or herself of the title or the guarantees of the credit, has let his or her right prescribe or forfeit, or has not exercised such right against the debtor or the guarantor when they were solvable.
2. When there is no right of repetition, the author of the consideration becomes a subrogee to the rights of the creditor.

ARTICLE 412
(Fulfilment of another person’s obligation assuming that you have the obligation of fulfilling it)

The person who fulfils another person’s obligation, erroneously assuming that he is obliged to the debtor to fulfil it, shall have no right of repetition against the creditor, but only the right to demand from the exonerated debtor the thing that the latter unjustly retained for himself or herself, save if the creditor was aware of the mistake when he received the consideration.

ARTICLE 413

(Object of the obligation to return)

1. The obligation to return on grounds of unjust enrichment shall include all things that may have been obtained at the expense of the impoverished person or, if the return in kind is not possible, the corresponding value.
2. The obligation to return cannot exceed the extent of retention at the time in which any of the facts referred to in the two paragraphs of the following article occurred.

ARTICLE 414

(Obligation made worse)

The enriched person shall also be henceforth liable for the perishment or faulty deterioration of the property, for fruits no longer received due to his or her fault and for the legal interest on the amounts to which the impoverished person is entitled, after any of the following events occur:
a) The enriched person has been cited by a court of law to return;
b) The enriched person knew beforehand that her enrichment was without cause, or without the effect desired with the performed consideration.

ARTICLE 415

(Obligation to return in case of non-valuable disposition)

1. If the enriched person performed a non-valuable disposition of anything that should be returned, the buyer shall remain bound in his or her place, but only to the extent of his or her own enrichment.
2. If however the transfer took place after some of the facts mentioned in the foregoing article had occurred, the seller shall be responsible according to the provisions of the said article and the buyer, if he acted in bad faith, shall be responsible according to the same provisions.

ARTICLE 416

(Prescription)

The right to return on grounds of enrichment prescribes within three years, counted from the date in which the creditor had knowledge of his or her right and of the responsible person, save the ordinary prescription if the respective deadline counted from the moment of enrichment has elapsed.

SECTION V
Civil liability

SUBSECTION I
Liability for unlawful facts

ARTICLE 417
(General principle)

1. Any person who, with intent or merely through fault, unlawfully breaches the rights of another or any legal provision intended to protect the interests of others shall be obliged to compensate the injured party for the damage resulting from the breach.
2. An obligation to pay compensation when there is no fault shall arise only in cases specified by law.

ARTICLE 418
(Action injurious to personal standing or good name)

Any person who makes or disseminates a statement liable to harm the personal standing or good name of any natural or legal person shall be liable for the damage caused.

ARTICLE 419
(Advice, recommendations or information)

1. Mere advice, recommendations or information shall not render the person from whom the same emanate liable even if there is negligence on his or her part.
2. The obligation to pay compensation shall arise, however, where liability for damage has been accepted, where there was a legal duty to give the advice, recommendation or information and the same was given negligently or with intent to cause harm, or where the conduct of the person giving the same constitutes a punishable act.

ARTICLE 420
(Omissions)

Mere omissions shall give rise to an obligation to make reparation for the damage where, irrespective of any other legal requirements, there was a duty, by law or by virtue of a legal transaction, to take the action which was not taken.

ARTICLE 421
(Fault)

1. It shall be incumbent on the injured party to prove the fault of the person who caused the injury, unless there was a legal presumption of fault.
2. Fault shall be assessed, in the absence of any other legal criterion, by reference to the diligence expected of a dutiful paterfamilias, having regard to the circumstances of each case.

ARTICLE 422

(Imputability)

1. A person who, when the event occurred, was incapable for any reason of understanding or of forming intent shall not be liable for the consequences of the injurious event, unless he wilfully caused himself or herself to be in that condition, and that condition was temporary.
2. Persons who are aged less than seven years or are subject to a psychiatric disorder shall be deemed not to bear liability.

ARTICLE 423

(Compensation paid by non imputable person)

1. If the act causing the damage has been performed by a non imputable person, the said person, on grounds of equity, may be sentenced to make total or partial reparation, if it is not possible that the reparation of the said damage is made by the people in charge of her surveillance.
2. Compensation however shall be calculated so as not to deprive the non imputable person of the necessary alimony, depending on her state and condition, or of the indispensable means to comply with her legal duties of alimony.

ARTICLE 424

(Liability of authors, instigators and people aiding and abetting)

If the unlawful act has been performed by several authors, instigators and people aiding and abetting, all of them are liable for the damage they have caused.

ARTICLE 425

(Liability of persons in charge of the surveillance of other persons)

Those persons who, by law or legal transaction, are obliged to ensure the surveillance of other persons, due to their natural disability, shall be responsible for damages caused to third parties, save if they prove that they complied with their surveillance duty, or that the damage would have been done even if they had complied with it.

ARTICLE 426

(Damage caused by buildings or other works)

1. The owner or holder of a building or any other works that totally or partially collapses, due to faulty construction or defective conservation, is liable for the damage done, unless he proves that it was not his or her fault and, even if the matter had been duly attended to, damage could not have been avoided.
2. The person obliged, by law or legal transaction, to conserve the building or the works is liable, in the place of the owner or the holder, when damage is exclusively due to defective conservation.

ARTICLE 427

(Damage caused by things, animals or activities)

1. A person holding property or movables with the duty of surveillance, as well as a person who has accepted the surveillance of any animals, is liable for the damage done by the thing or the animals, unless the said person proves that it was not her fault, or that the damage would have been done anyway, even if there had not been any fault.
2. A person causing damage to another person while developing an activity, which is dangerous per se or due to the nature of the used means, shall be liable to make reparation for such damage, unless she demonstrates that she employed all means required by the circumstances to prevent it.

ARTICLE 428

(Limitation of compensation in cases of mere fault)

Where liability is based on mere fault, compensation may be fixed equitably to an amount lower than that corresponding to the damage caused, provided that the degree of fault of the wrongdoer, the financial situation of the wrongdoer and of the injured party as well as the other circumstances of the case so justify.

ARTICLE 429º

(Compensation for third parties in the event of death or bodily injury)

1. Where an injury leads to death, the person responsible shall be obliged to pay compensation for the costs incurred in seeking to save the injured party, and all other expenses, not excluding funeral expenses.
2. In any such case, and in all other instances of bodily injury, a right to compensation shall be available to those who tendered help to the injured party and to hospitals, doctors or other persons or entities which took part in treating or assisting the victim.
3. The right to compensation shall also be available to those entitled to require maintenance from the injured party and to those to whom the injured party paid maintenance in fulfilment of a natural obligation.

ARTICLE 430

(Non-material damage)

1. For the determination of compensation, regard must be had to non-material damage which, because of its seriousness, deserves the protection of the law.
2. Where a victim dies, the right to compensation for non-material damage shall be available, jointly, to a spouse who is not legally separated and to the children or other descendants; failing the latter, to the parents or other ascendants; and, finally, to the brothers and sisters or nephews and nieces representing them.
3. The amount of compensation shall be fixed equitably by the court, having regard in any event to the circumstances mentioned in Article 428º; in the event of death, regard may be had not only to non-material damage suffered by the victim but also to such damage suffered by the persons entitled to compensation by virtue of the foregoing paragraph.

ARTICLE 431
(Joint liability)

1. If damage has been caused by several persons, they shall be jointly liable for it.
2. The right of recourse among the liable persons exists as a function of the respective fault and the resulting consequences. The fault of liable persons is assumed equal.

ARTICLE 432
(Prescription)

1. The right to compensation prescribes after a three-year deadline, counted from the date on which the injured party came to know his or her right, although ignoring the liable person and the full extension of the damage, notwithstanding ordinary prescription if the respective deadline has elapsed counting from the damaging fact.
2. The right of recourse between the liable persons also prescribes after three years, counted as from compliance.
3. If the unlawful fact constitutes crime, for which the law establishes prescription subject to a longer deadline, then this shall be the applicable deadline.
4. Prescription of the right to compensation does not entail prescription of the claiming action nor of the return action for unjust enrichment, if either of them applies.

SUBSECTION II
Liability for risk

ARTICLE 433
(Applicable provisions)

Provisions governing liability for unlawful facts can be extended to cases of liability for risk, in the applicable part and in the absence of legal precepts against it.

ARTICLE 434
(Liability of the principal)

1. A person who gives a mandate to another person is liable, irrespective of fault, for damage caused by the agent, provided that the latter also has the obligation to compensate.
2. Liability of the principal only exists if the damaging fact was performed by the agent, even if with intent or against the instructions of the former, while performing the function assigned to him.
3. The principal who pays the compensation has the right to demand from the agent the reimbursement of all that he paid, save if the fault is also his. In this case, the provisions of Article 431, paragraph 2, shall apply.

ARTICLE 435
(Liability of the State and other public legal persons)

The State and the other public legal persons, when there is damage caused to third parties by their bodies, agents or representatives while developing their private management activities, are civilly liable for such damage, as principals are liable for damage caused by their agents.

ARTICLE 436
(Damage caused by animals)
A person who uses any animals in her own interest shall be liable for any damage they cause, provided that such damage results from the special danger associated with their use.

ARTICLE 437
(Accidents caused by vehicles)
1. A person who has the real possession of a road vehicle and uses it in her own interest albeit by means of an agent shall be liable for damage inherent to the vehicle's own risk, even if such vehicle is not circulating.
2. Non imputable persons shall be liable as laid down in Article 423.
3. A person who drives the vehicle on behalf of another person shall be liable for the damage he causes, unless he proves that he had no fault. If however he drives the vehicle outside the scope of his or her functions as agent, he shall be liable pursuant to paragraph 1.

ARTICLE 438
(Liability beneficiaries)
1. Third parties and transported passengers shall benefit from liability for damage caused by vehicles.
2. In the case of contract-based transport, liability shall only cover the damage suffered by the person herself and the things she transports.
3. In the case of gratuitous transport, liability shall only cover the bodily injury of the transported passengers.
4. All clauses that exclude the carrier's liability for accidents injuring the transported person, or limit his or her liability, shall be void.

ARTICLE 439
(Exclusion of liability)
Safeguarding the provisions of Article 505, the liability determined by Article 437 paragraph 1 shall be excluded only when the accident is imputable to the injured party himself or herself or a third party, or when it results from force majeure unrelated with the vehicle's functioning.

ARTICLE 440
(Vehicle collision)
1. If a collision of two vehicles results in damage regarding both or one of them, and none of the drivers has fault in the accident, liability shall be shared as a proportion of each vehicles risk contribution to damage. If damage is caused only by one vehicle and none of the two drivers has the fault, only the person liable for such damage is obliged to pay compensation.
2. When in doubt, the contribution of each vehicle to the damage shall be considered, as well as the contribution of each driver's fault.

ARTICLE 441
(Joint liability)

1. If several persons were liable for the risk, all of them shall be jointly liable for the damage, even if only some of them have the fault.
2. In the relationships among the various liable persons, the obligation to compensate shall be shared as a function of each person's interest in the use of the vehicle. If however one person, or more, have the fault, only the faulty shall be liable. As regards the right of recourse, Article 431 paragraph 2 shall apply between them, or with regard to them.

ARTICLE 442
(Maximum limits)

1. Compensation on grounds of car accident, when the liable person has no fault, has the following maximum limits: in case of death or bodily injury of a person, the amount corresponding to the double attributable at the court of appeals; in the case of death or bodily injury of several persons as a consequence of the same accident, the amount corresponding to the double attributable at the court of appeals for each of them, with a total maximum limit of six times the amount attributable by the court of appeals; in the case of damage caused to things, even though they belong to different owners, the amount corresponding to the value attributed by the court of appeals.
2. If compensation is determined in the form of an annual rent and the liable person has no fault, the maximum limit shall be one fourth of the value attributable by the court of appeals for each injured party, which cannot exceed three quarters of the amount attributable by the court of appeals when the same accident resulted in several injured parties.
3. If the accident was caused by a vehicle used for public transport, the total maximum limits determined in the foregoing paragraphs are raised to the triple. If caused by railway, to ten times the base value.

ARTICLE 443
(Damage caused by electricity or gas facilities)

1. A person who has the real possession of the facility used for transmitting or delivering electricity or gas, and uses such facility in her interest, shall be liable both for the loss resulting from the transmission or delivery of electricity or gas and for the damage resulting from the facility itself, unless at the time of the accident the said facility complies with the technical regulations in force and is in a perfect state of conservation.
2. No reparation has to be made in connection with damage due to force majeure. Force majeure is any external cause independent of the functioning and use of the thing.
3. No reparation has to be made pursuant to this provision in connection with damage caused by energy use tools.

ARTICLE 444
(Liability limits)

1. Liability referred to in the foregoing article, when the liable person has no fault, sets forth as maximum limit for each accident, in the case of death or bodily injury, a capital or an annual rent identical to those established in Article 442, paragraph 1, for the death or bodily injury of a person.
2. In case of damage caused to things, albeit several items belonging to several owners, the maximum limit shall be a capital identical to the compensation for the death or bodily injury of one person, as laid down in Article 442, paragraph 1.
3. In case of damage to property, the maximum limit of liability for the risk is increased to ten times the amount established in the foregoing paragraphs, for each piece of property.

CHAPTER III
The various kinds of obligations

SECTION I
Obligations of an unidentified active subject

ARTICLE 445
(Identification of the creditor)

The creditor may not become identified when the obligation is set up; but he shall be identifiable, at risk that the legal transaction from which the obligation arises be null and void.

SECTION II
Joint and several obligations

SUBSECTION I
General provisions

ARTICLE 446
(Concept)

1. There is joint and several liability on the part of debtors when they are all bound to the same thing in such a way that each one may be compelled to discharge the whole debt, and payment made by one alone operates so as to release the others against the creditor; and an obligation is joint and several between two or more creditors when it expressly gives to each of them the right to demand payment of the whole claim, and payment made to any one of them discharges the debtor against all creditors.
2. An obligation may be joint and several even though the debtors are bound in different terms or under different securities or for a different consideration; the same differences may occur as to the debtor’s obligation towards each one of the joint and several creditors.

ARTICLE 447
(Sources of joint and several obligations)

Joint and several liability only exists under a statutory provision or if expressly stipulated by and between the parties.

ARTICLE 448
(Defences)

1. A joint and several co-debtor whom the creditor has compelled to discharge the debt may set up all the defences which are personal to him and those which are common to all the co-debtors.
2. Common defences as well as those which have a personal concern may also be opposable to a joint and several creditor.

ARTICLE 449
(Heirs of joint and several debtors and creditors)

1. The heirs of a joint and several co-debtor shall be collectively liable for the whole debt; once the inheritance is divided up, each co-heir shall be liable in terms of article 1962.
2. The heirs of a joint and several creditor may release the debtor only together; the credit being awarded to two or more heirs once the inheritance is divided up, they may release the debtor only together as well.

ARTICLE 450
(Debt and credit sharing)

In their internal relationship, the joint and several debtors and creditors shall be supposed to share their debt or credit equally, whenever it does not arise from their jural relation that their shares are different or that only one of them bears the debt charge or obtains the credit benefit.

ARTICLE 451
(Joint litigation)

1. Joint and several liability shall not prevent joint and several debtors from suing the creditor together or being sued together by him.
2. Joint and several creditors have the same right towards the debtor and the latter towards them as well.

SUBSECTION II
Joint and several debtors

ARTICLE 452
(Exclusion of the division benefit)

It shall not be lawful for the sued debtor to set up the benefit of division; and although he may call the remaining co-debtors to take part in the litigation, he shall always fulfil the obligation of paying the whole debt.

ARTICLE 453
(Creditor's rights)

1. The creditor shall have the right to demand payment of the whole debt by any one of the debtors, or part of it, rateably or not to this one's share; but proceedings brought against one of the debtors to demand him the whole or part of the debt shall prevent the creditor from instituting similar ones against the remaining debtors to the extent of what he has demanded to the former, unless there is a compelling reason thereto, like the defendant's insolvency or risk of insolvency or any other difficulty in obtaining his or her payment.
2. If any one of the debtors has any personal defence against the creditor, this one shall not become unable to demand payment of the whole debt by the remaining debtors although the first one has already made use of that defence.

ARTICLE 454
(Consideration turned impossible)

In case consideration has become impossible for a reason imputable to one of the debtors, all of them shall become jointly and severally liable for its value; but only the debtor to whom the fact is imputable shall be liable for damages exceeding that value, and in case of more than one debtor to whom the fact is imputable they shall be jointly and severally liable for the exceeded value.

ARTICLE 455
(Prescription)

1. If, on account of suspension or interruption of prescription or for another reason, the obligation of one of the debtors has remained though the obligation of the other ones have prescribed and the former has been compelled to fulfil his or her obligation, he may recover from the remaining co-debtors the share and portion of each of them.
2. Debtor who has not invoked prescription has not the right of recovery from the other co-debtors whose obligations have prescribed as long as the latter have alleged such.

ARTICLE 456
(Definitive judicial decision)

A definitive and obligatory judicial decision concerning the creditor and one of the debtors shall not be opposable to the remaining co-debtors, but may be opposable by the latter as long as it is not based upon a ground personal to that debtor.

ARTICLE 457
(Satisfaction of creditor's right)

Satisfaction of creditor's right through fulfilment, accord and satisfaction, novation, consignment or set-off leads to the extinguishment of the obligations of all debtors towards him.

ARTICLE 458
(Right of recovery)

Debtor who has fulfilled creditor's right beside his or her own debt portion has the right of recovery from the remaining co-debtors for the share and portion of each one of them.

ARTICLE 459
(Defences opposable by the co-debtors)

1. Co-debtors may oppose to the one who satisfies creditor's right that the prescribed deadline to fulfil their obligation has not yet been reached as well as any other defence, be it a common one or one concerning the compelled co-debtor personally.
2. Faculty allowed under the previous paragraph shall remain although the faultless co-debtor has not opposed a common defence to the creditor, unless the lack of opposition is imputable to the debtor who intends to use the same defence.

ARTICLE 460
(Insolvency of the co-debtors or impossibility of fulfillment)

1. If one of the co-debtors becomes insolvent or for any other reason cannot fulfil his or her consideration, his or her portion shall be apportioned pro rata amongst all the other solvent co-debtors including the one who has made the payment and those who have been discharged from their obligation or from the mere joint and several liability by the creditor.
2. The co-debtor who has made the payment shall lose the partition benefit insofar as due to his or her fault he has not been able to recover the co-debtor's portion of the joint and several obligation.

ARTICLE 461
(Waiver of joint and several liability)

Although the creditor may waive the joint and several right of action with respect to one of the debtors, his or her right shall remain with respect to the remaining debtors, who shall be jointly and severally liable for the whole debt.

SUBSECTION III
Joint and several creditors

ARTICLE 462
(Creditor choice)

1. It shall be at the choice of the debtor to pay one or another of the joint and several creditors, unless previous notice has been given to him by one of such creditors whose credit has fallen due, by means of a judicial demand or other judicial act.
2. In case the debtor has paid a joint and several creditor who is not the same one who has sued him, he shall nevertheless pay the claimant the whole debt; but when the joint and several liability among creditors has been set in favour of the debtor, the latter may totally or partially waive the benefit and thus pay each one of the creditors his or her portion of the common credit or any other of the creditors the whole debt with deduction of the claimant's portion.

ARTICLE 463
(Consideration turned impossible)

1. In case consideration has become impossible for a reason imputable to the debtor, joint and several liability among creditors concerning the right to damages shall remain.
2. In case consideration has become impossible for a reason imputable to one of the creditors, this one shall pay damages to the other ones.

ARTICLE 464
(Prescription)

1. If one of the creditors' right has remained due to suspension or interruption of prescription or for another reason though the rights of the other ones have prescribed, the debtor may oppose such creditor the prescription of the credit concerning the latter's portion.
2. The waiver of the prescription made by the debtor in favour of one of the creditors shall have no effect towards the remaining ones.

ARTICLE 465
(Definitive judicial decision)

A definitive and obligatory judicial decision regarding one of the creditors and the debtor shall not be opposable to the remaining creditors; but may be opposable to the debtor by the latter without detriment to the personal exceptions which the debtor has the right to invoke towards each of them.

ARTICLE 466
(Satisfaction of one of the creditors' right)

Satisfaction of one of the creditors' right through fulfillment, accord and satisfaction, novation, consignment or set-off leads to the extinguishment of debtor's obligations towards all creditors.

ARTICLE 467
(Obligation of the creditor who has been paid)

Creditor who has been paid besides the portion competent to him in the internal relationship amongst creditors shall pay the remaining creditors the share and portion of the common credit competent to each of them.

SECTION III
Divisible and indivisible obligations

ARTICLE 468
(Divisible obligations)

The portions of a divisible obligation competent to several creditors or debtors shall be equal unless a different proportion arises from law or from a legal transaction; but amongst debtor's heirs, once the inheritance is divided up, those portions shall be rateably set in accordance to their hereditary shares, without detriment to the provisions of article 1962, paragraphs 2 and 3.

ARTICLE 469
(Indivisible obligations with a plurality of debtors)

1. In case of several debtors of an indivisible consideration, creditor may only demand the fulfilment of obligation by all debtors unless joint and several liability has been stipulated or arises from law.
2. When several heirs succeed the original debtor of the indivisible consideration, creditor may also only demand the fulfilment of obligation by all of them.

ARTICLE 470
(Extinguishment of obligation in respect of one of the debtors)

In case the indivisible obligation has only extinguished in respect of one or some of the debtors, creditor may demand the fulfilment of obligation by the remaining obligors as long as he gives them the portion competent to the released debtor or debtors.

ARTICLE 471
(Consideration turned impossible)

In case the indivisible consideration has become impossible for a reason imputable to one or some of the debtors, the remaining ones become released therefrom.

ARTICLE 472
(Plurality of creditors)

1. In case of several creditors of an indivisible consideration, any one of them has the right to demand it as a whole; but the debtor may only be released therefrom against all of them while previous notice has not been given to him by means of a judicial demand or other judicial act.
2. A definitive judicial decision favourable to one of the creditors may benefit the remaining ones if the debtor has no special defences against them.

SECTION IV
Generic obligations

ARTICLE 473
(Determination of the object of an obligation)

In case the object of an obligation is only determined as to its kind, the debtor shall choose it if there is no clause stipulating otherwise.

ARTICLE 474
(Non-perishment of kind)

As long as consideration is possible with things of the stipulated kind, the fact that those with which the debtor has intended to fulfil his or her obligation have perished shall not release him therefrom.

ARTICLE 475
(Concentration of an obligation)

Before being fulfilled, obligation may concentrate when the parties agree thereto, when the kind has extinguished in such a way that only one of the things which it encompasses is remaining, in case of delay on the part of the creditor or in terms of article 731.

ARTICLE 476
(Concentration accorded to the creditor or to a third party)

1. In case choice is accorded to the creditor or to a third party, it shall be effective only if it is notified to the debtor or to both parties, respectively, and it shall be irrevocable.
2. In case choice is accorded to the creditor and he does not perform it before the stated deadline or the one prescribed thereto by the debtor, such choice shall shift to the latter.

SECTION V
Alternative obligations

ARTICLE 477
(Concept)

1. Alternative obligation is the one which includes two or more considerations, the debtor releasing himself or herself therefrom by delivering the chosen one.
2. In case there is no provision stipulating otherwise, choice shall belong to the debtor.

ARTICLE 478
(Indivisibility of the considerations)

Neither the debtor may choose a part of a consideration and a part of any other or others, nor may the creditor or a third party so do when choice belongs to them.

ARTICLE 479
(Consideration turned impossible for a reason not imputable to the parties)

In case one or some of the consideration alternatives have become impossible for a reason not imputable to the parties, obligation shall be deemed to be limited to the remaining alternatives.

ARTICLE 480
(Consideration turned impossible for a reason imputable to the debtor)

In case any of the consideration alternatives has become impossible for a reason imputable to the debtor and choice belongs to him, he shall fulfil one of the possible considerations; if choice belongs to the creditor, this one may demand one of the possible considerations, may claim damages for the consideration which has become impossible has not been fulfilled or may terminate the contract in general terms.

ARTICLE 481
(Consideration turned impossible for a reason imputable to the creditor)

In case any of the consideration alternatives has become impossible for a reason imputable to the creditor and choice belongs to him, obligation shall be deemed to have been fulfilled; if choice belongs to the debtor, obligation shall also be deemed to have been fulfilled unless he chooses to fulfil another consideration and be paid damages.

ARTICLE 482
(Lack of debtor's choice)

In executing the contract, creditor may demand that the debtor, within the deadline set by court, indicates the consideration of his or her choice at risk right of choice shifts to creditor.

ARTICLE 483
(Choice by the creditor or by a third party)

Article 476 shall apply to the choice made by the creditor or by a third party.

SECTION VI
Pecuniary obligations

SUBSECTION I
Obligations of quantity

ARTICLE 484
(Nominalistic principle)

Fulfilment of pecuniary obligations shall be made in the currency having legal tender in the country at the time of the payment and for the nominal value it has at that time unless there is a clause stipulating otherwise.

ARTICLE 485
(Updating of pecuniary obligations)

When, by virtue of fluctuations in the currency value, updating of pecuniary obligations is allowed by law, it shall be based on the prices indexes if there is no other legal criterion, so as to restore the rate between consideration and the corresponding quantity of goods, which existed at the time obligation has been set up.

SUBSECTION II
Obligations of a specific currency

ARTICLE 486
(Validity of obligations of a specific currency)

Legal tender or forced tender of banknotes shall not affect the validity of an act from which someone has committed himself or herself to pay in coins or its corresponding value.

ARTICLE 487
(Obligations of a specific currency without expressing its amount in current money)

When payment agreed is to be made in a certain currency, it shall be made in that currency, if this one legally exists, though its value has changed after the time obligation has been set up.

ARTICLE 488
(Obligations of a specific currency or of a certain metal expressing its amount in current money)

When the amount of an obligation is expressed in current money but it is stipulated that fulfilment shall be made in a certain currency or in coins of a certain metal, the parties shall be supposed to want to be bound by the current value that the currency or the coins of the chosen metal had at the time of the stipulation.

ARTICLE 489
(Lack of the stipulated currency)

1. When fulfilment in a certain currency, in a certain metal or in coins of a certain metal has been stipulated, and the stipulated currency and coins have not been found in enough quantity, payment may be made, as to the portion of debt which cannot be satisfied according to agreed terms, in current money which amounts to its value, in accordance with the exchange rates that the chosen currency and the coins of the selected metal have at the time of fulfilment.
2. In case the stipulated currency or the coins of the selected metal are not rated, attention shall be turned to its current value or, if this one is lacking, to the current value of the metal; same criterion shall be followed when the coin, due to its rarity, has reached an abnormal rate or current price which the parties have not expected at the time obligation has been set up.

ARTICLE 490
(Specific currency without a legal tender status)

1. Whenever the stipulated currency or the coins of the stipulated metal are no longer legal tender at the time of fulfilment, payment shall be made in a currency which is legal tender at that time, in accordance with the reduction rule stated by law or, in case law does not prescribe it, according to the proportion of current values at the time new currency has been launched.
2. When the amount of an obligation has been expressed in current money, and payment in certain currencies, in a certain metal or in coins of a certain metal has been stipulated, those coins being no longer legal tender at the time of fulfilment, provision of previous paragraph shall be followed once the quantity of coins corresponding to the debt amount has been determined.

ARTICLE 491
(Fulfilment with coins of two or more metals or of one among different metals)

1. In case fulfillment with coins of one among two or more metals has been agreed, determination of the person whom the choice belongs shall be made in accordance with alternative obligations rules.
2. When obligation fulfillment with coins of two or more metals has been stipulated without defining the respective proportion, the debtor shall comply with his or her obligation by delivering coins of the specified metals in equal parts.

SUBSECTION III
Obligations in a foreign currency

ARTICLE 492
(Fulfillment terms)

1. Stipulation of fulfillment in a foreign currency shall not prevent the debtor from paying in the national currency according to the exchange rate of the day and place of fulfillment unless that faculty has been ruled out by the interested parties.
2. Nevertheless, in case of delay on the part of the creditor, debtor may fulfil according to the exchange rate on the date the delay occurred.

SECTION VII
Obligations of interest

ARTICLE 493
(Interest rate)

1. Legal interest and interest stipulated without setting its rate or amount shall be fixed by joint regulation of the Ministers of Justice and of Finance.
2. Stipulation of interest at a rate higher than the rate fixed in terms of previous paragraph shall be made in writing, otherwise interest due shall coincide with legal interest.

ARTICLE 494
(Usurary interest)

Provision of article 1066 shall apply to any stipulation of interest or any other benefits arising from acts concerning concession, grant, renewal, discount or extension of time limit to pay a credit and similar acts.

ARTICLE 495
(Anatocism)

1. Interest fallen due may in turn bear other interest as long as an agreement has been entered into after the interest has fallen due; compound interest may also be possible from the day notice has been given to the debtor by means of a judicial demand claiming for accumulation of interest fallen due or for its payment at risk of accumulation.
2. Only interest due for a period not less than one year may be accumulated.
3. Restrictions referred to in the previous paragraphs shall not apply in case they infringe trade specific rules or usages.

ARTICLE 496
(Autonomy of interest credit)

Since the moment interest credit is set up, it shall not be necessarily bound to the main credit, any one of them being able to be separately assigned or extinguished.

SECTION VIII
Indemnity obligation

ARTICLE 497
(General principle)

He who is obligated to indemnify shall restore the situation that should exist if the event giving rise to the indemnity had not occurred.

ARTICLE 498
(Causal link)

Obligation to indemnify shall only exist with respect to a damage which the injured person would probably not have incurred if injury had not been produced.

ARTICLE 499
(Indemnity calculation)

1. Obligation to indemnify shall cover the damage caused as well as the benefits the injured person has no longer been able to obtain as a result of the injury.
2. In calculating indemnity, court may look to the coming damage as long as it is predictable; if it is not determinable, calculation of the corresponding indemnity shall be made later.

ARTICLE 500
(Provisional indemnity)

If indemnity is to be calculated at the time of judgment execution, the court may nevertheless from the beginning condemn debtor to pay damages limited to the amount deemed to be already proved.

ARTICLE 501
(Indemnity in money)

1. Indemnity shall correspond to a money amount whenever natural restoring is not possible, does not completely indemnify for the damage caused or is hugely expensive for the debtor.
2. Without detriment to any other provision regulating this subject matter otherwise, indemnity in money shall correspond to the difference between the patrimonial situation of the injured person at the most recent time the court can look to and the patrimonial situation he should have at that time if damage had not been produced.
3. In case the exact value of the damage cannot be confirmed, the court shall decide equitably within the limits that are deemed to have been proved.

ARTICLE 502
(Indemnity in the form of an annuity)

1. Given the continuous nature of damage, the court may, at the injured party's request, accord a total or partial indemnity in the form of a life annuity or a temporary annuity and shall determine the necessary measures in order to secure its payment.
2. Any party shall be allowed to demand an amendment to the terms of the judgment or the agreement when the circumstances on which the annuity establishment, its amount or duration and exemption or imposition of securities thereof are based have substantially altered.

ARTICLE 503
(Assignment of the injured party's rights)

In case indemnity arises from the loss of a thing or a right, the liable person may demand, when he fulfills payment thereof or later, that the injured person assigns him his or her rights against third parties.

ARTICLE 504
(Indication of damage amount)

He who demands an indemnity shall not need to refer to the exact amount of damage pursuant to his or her assessment, and the fact he has demanded a certain amount shall not prevent him, in the course of judicial demand, from claiming a higher amount in case lawsuit has showed a higher damage than the one which has been initially foreseen.

ARTICLE 505
(Injured party's fault)

1. When a faulty act on the part of the injured person has contributed to produce or increase damage, the court shall be competent to decide, upon measuring the levels of fault of both parties and the effects which have arisen therefrom, whether indemnity shall be totally accorded or reduced or even excluded.
2. In case liability is based on a mere presumption of fault, the injured party's fault shall exclude the obligation to indemnify if there is no provision stating otherwise.

ARTICLE 506
(Personal representatives' and assisting persons' fault)

A faulty act on the part of personal representatives or assisting persons shall be treated similarly to an injured party's faulty act.

ARTICLE 507
(Proof of fault of the injured party)

He who alleges injured party's fault shall prove it; but the court shall examine it although it has not been alleged.

SECTION IX
Obligation to inform and present things or documents

ARTICLE 508
(Obligation to inform)

Obligation to inform shall exist whenever the right holder has well-grounded doubts concerning its existence or content and somebody else is able to give him the necessary information.

ARTICLE 509
(Presentation of things)

1. He who invokes to have a personal or real right, although it be conditional or subject to a time limit, concerning a certain movable or immovable thing may demand presentation thereof from its possessor or withholder, provided examination is needed to determine the right's existence or content and the one who has been demanded has not well-grounded reasons to oppose that proceeding.
2. When the one from whom the presentation of a thing is demanded is holding it on behalf of a third party, he shall notify the latter as soon as presentation has been demanded, so that he can use the appropriate defences as long as he wants to.

ARTICLE 510
(Presentation of documents)

Provisions inserted in the previous article shall apply, with the pertinent adaptations, to documents, provided the requester has a legal interest deserving protection in their examination.

ARTICLE 511
(Reproduction of things and documents)

Once presentation is done, the requester may take copies or pictures or use other devices to get the thing or the document reproduced, provided reproduction is necessary and the requested person does not oppose a serious reason thereto.

CHAPTER IV
Transfer of credits and debts

SECTION I
Assignment of credits

ARTICLE 512
(Admissibility of assignment)

1. Creditor may partially or totally assign his or her credit to a third party, irrespective of debtor's consent, provided that assignment is not forbidden by law or parties agreement and credit is not personally linked to the creditor for the very nature of consideration.
2. Agreement which forbids or limits assignment possibility is not opposable to the assignee unless this one knew it when assignment has taken place.

ARTICLE 513
(Applicable regime)

1. Requisites and effects of assignment between parties are laid down according to the type of its underlying act.
2. Assignment of mortgage credits, in case it is not done by means of a will and mortgage concerns immovable assets, shall be necessarily reported in a deed.

ARTICLE 514
(Forbiddance of litigious rights assignment)

1. Assignment of credits or other litigious rights made, directly or through a third party, in favour of judges or public prosecutors, clerks or delegates of the court shall be null and void in case proceedings are running in the area where they usually perform their professional duties; credits or rights assignment made in favour of experts or other court auxiliaries who take part in the respective proceedings shall be null as well.
2. Assignment is said to be done through a third party when it is made to the inhibited person's spouse or his or her presumable heir or to a third one who, by common consent with the inhibited person, will transfer the assigned thing or right to him.
3. A right is said to be litigious when it has been contested at a court, although it be an arbitral one, by any interested party.

ARTICLE 515
(Sanctions)

1. Assignment which breaches the provisions of the previous article, besides being null, shall bring the assignee under the obligation of indemnifying in general terms.
2. Assignment nullity cannot be invoked by the assignee.

ARTICLE 516
(Exceptions)

Forbiddance of credits or litigious rights assignment shall not take place in the following cases:

a) When assignment is made to the holder of a right of preference or redemption related to the assigned right;
b) When assignment is made to defend the property possessed by the assignee;
c) When assignment is made to the creditor in order to fulfil an obligation towards him.

ARTICLE 517
(Transfer of securities and other accessories)

1. Unless agreed to the contrary, credit assignment involves the transfer of securities and other accessories of the assigned right to the assignee unless they are inseparable from assignor's person.
2. The pledged thing which is in assignor's possession shall be delivered to the assignee unless it is in a third person's possession.

ARTICLE 518
(Effects with respect to the debtor)

1. Assignment shall be effective with respect to the debtor as long as he will be notified thereof, although extrajudicially, or will accept it.
2. Nevertheless, in case debtor pays the assignor or enters into a legal transaction in relation to the credit together with him before notification or acceptance, neither the payment nor the act shall be opposable to the assignee as long as this one is able to prove that the debtor had knowledge of the assignment.

ARTICLE 519
(Assignment to different people)

In case the same credit is assigned to different people, assignment of which the debtor has been notified in the first place or which has been accepted by him shall prevail.

ARTICLE 520
(Defences opposable by the debtor)

Debtor may oppose to the assignee all defences that he might invoke against the assignor, although assignee would ignore them, except those arising from a fact occurred after the assignment awareness.

ARTICLE 521
(Documents and other evidence)

Assignor shall have the obligation to deliver to the assignee documents and other evidence of credit which he may have in his or her possession and has no legitimate interest to keep.

ARTICLE 522
(Security of credit existence and debtor's solvency)

1. Assignee shall be secured by the assignor as for credit existence and exigibility at the time of the assignment in terms applicable to the valuable or non-valuable transaction to which assignment relates.
2. Assignor shall only secure debtor's solvency in case he has expressly undertaken that obligation.

ARTICLE 523
(Application of assignment rules to other items)

Rules for credits assignment shall apply, with the pertinent adaptations, to any other rights which law does not exclude, as well as to the transfer of credits by operation of law or prescribed by court.

SECTION II
Subrogation

ARTICLE 524
(Subrogation by the creditor)

Creditor who receives the consideration from a third person may subrogate him to his or her rights as long as he expressly performs it till the moment obligation is fulfilled.

ARTICLE 525
(Subrogation by the debtor)

1. A third person who fulfills obligation may also be subrogated by the debtor till the moment of fulfillment without creditor's consent being required.
2. Willingness to subrogate shall be expressly declared.

ARTICLE 526
(Subrogation following a loan granted to the debtor)

1. Debtor who fulfills his or her obligation with money or other fungible lent to him by a third person may subrogate the latter to creditor's rights.
2. Subrogation shall not need creditor's consent, but may only occur when there is an express statement, reported in the loan instrument, saying thing is aimed at obligation fulfillment and lender gets subrogated to creditor's rights.

ARTICLE 527
(Statutory subrogation)

1. Taking apart cases foreseen under the previous articles or other legal provisions, the third person who fulfills an obligation shall only get subrogated to creditor's rights when he has secured or for another reason is directly interested in credit satisfaction.
2. Accord and satisfaction, consignment, set-off or any other cause leading to credit satisfaction which is compatible with subrogation shall be treated similarly to fulfillment.

ARTICLE 528
(Subrogation effects)

1. Subrogee shall get the powers competent to the creditor to the extent of satisfaction he has given to the latter's rights.
2. In case of partial satisfaction, subrogation shall not affect creditor's rights or those of his or her assignee unless otherwise stipulated.
3. In case there are several subrogees though in consecutive moments, each one having partially satisfied the credit, none of them shall prevail over the others.

ARTICLE 529
(Applicable provisions)

Articles 517 to 519 shall apply, with the necessary adaptations, to subrogation.

SECTION III
Transfer of a single debt

ARTICLE 530
(Debt assumption)

1. The transfer of a single debt may occur:
a) Through a contract between the former debtor and the new one which has been ratified by the creditor;
b) Through a contract between the new debtor and the creditor irrespective of former debtor's consent.
2. In any case, transfer shall only discharge former debtor in case there is an express statement on the creditor's part; otherwise, former debtor shall be jointly and severally liable together with the new debtor.

ARTICLE 531
(Creditor's ratification)

1. Parties may dissolve the contract referred to in the previous article, no 1, paragraph a), so long as it has not yet been ratified by the creditor.
2. Any party to the contract has the right to set the creditor a deadline to ratify, and once this deadline is reached without ratification has taken place, this one is deemed to have been refused.

ARTICLE 532
(Invalidity of transfer. Defences)

1. In case contract for debt transfer has been declared null and void or made such and creditor has discharged the former debtor, the latter's obligation revives, but securities delivered by a third party are deemed to be extinguished, unless this one knew about the fault at the time he has become aware of the transfer.
2. Unless agreed to the contrary, new debtor has no right to oppose the creditor defences based on the relationship between himself or herself and the former debtor, but he may oppose him defences arising from the relationship between the former debtor and the creditor provided their ground has occurred before debt assumption and they are not personal to the former debtor.

ARTICLE 533
(Transfer of securities and accessories)

1. Unless agreed to the contrary, accessory obligations of the former debtor which are not inseparable from his or her person shall be transferred to the new debtor together with the debt.
2. Credit securities shall remain in the same terms, except for those which have been set up by a third party or the former debtor who has not consented to debt transfer.

ARTICLE 534
(New debtor's insolvency)

Creditor who has discharged the former debtor may not exercise his or her credit right or any other security right against him in case new debtor becomes insolvent unless he has expressly safeguarded former obligor's liability.

CHAPTER V
General security of obligations

SECTION I
General provisions

ARTICLE 535
(General principle)

All of debtor's property susceptible to attachment shall be liable for obligation fulfillment without detriment to the regimes especially laid down as a result of patrimonial split.

ARTICLE 536
(Limitation on liability by agreement)

Except for the matters over which parties may not stipulate, they shall be allowed to agree to limit debtor's liability to a part of his or her property in case obligation is not voluntarily fulfilled.

ARTICLE 537
(Limitation by a third party's resolution)

1. Property left or donated under a clause of liability exclusion for beneficiary's debts shall be liable for obligations incurred after the liberality and for the previous ones as well, provided attachment has been registered before the registration of that clause.
2. In case liberality focus upon property not subject to registration, the clause shall only be opposable to creditors whose right is prior to the liberality.

ARTICLE 538
(Bankruptcy creditors' joint claims)

1. If there are no legitimate causes of preference, creditors shall have the right of being proportionally paid from the value of debtor's property in case this one is not enough to pay all debts.
2. Consignment, pledge, mortgage, privilege and lien shall be legitimate causes of preference, besides other ones admitted by law.

SECTION II
Maintenance of patrimonial security

SUBSECTION I
Nullity declaration

ARTICLE 539
(Creditors' legitimacy)

1. Creditors shall have legitimacy to invoke nullity of acts performed by the debtor whether these ones have taken place before or after credit constitution as long as they have an interest in nullity declaration, but it shall not be necessary that the act leads to or worsens debtor's insolvency.
2. Nullity shall not only benefit the creditor who has invoked it but also all the remaining ones.

SUBSECTION II
Creditor subrogation over the debtor

ARTICLE 540
(Rights subject to subrogation)

1. Creditor may exercise, against a third person, the patrimonial rights competent to the debtor whenever this one has not done it, unless, for their own nature or by provision of law, they only may be exercised by their holder.
2. Nevertheless, subrogation shall only be allowed when it is essential to satisfy or secure creditor's right.

ARTICLE 541
(Creditors under a suspensive condition or a time limit)

Creditor under a suspensive condition and creditor under a time limit may only exercise subrogation before the condition has occurred or the credit has fallen due when they have an interest therein.

ARTICLE 542
(Notice to debtor)

When an action has been entered for subrogation to be exercised, the debtor shall be given notice thereof.

ARTICLE 543
(Subrogation effects)

Subrogation which has been exercised by one of the creditors shall benefit all the remaining ones.

SUBSECTION III
Paulian impeachment

ARTICLE 544
(General requirements)

Acts leading to a diminution of credit's patrimonial security and being not of a personal nature may be repudiated by the creditor in case:
a) Such credit is prior to the act or, if subsequent thereto, the act has been deceitfully performed with intent to prevent satisfaction of future creditor's credit; and
b) The creditor has found it impossible to get the whole satisfaction of his or her credit or has found that impossibility made worse as a result from the act.

ARTICLE 545
(Proof)

Proof of debts amount shall belong to the creditor and proof that obligor owns property susceptible to attachment of the same or higher value shall belong to the debtor or a third party interested in maintaining the act.

ARTICLE 546
(Bad faith requirement)

1. An onerous act shall only be susceptible of paulian impeachment if the debtor and the third party have acted in bad faith; in case of a gratuitous act, this one shall always be susceptible of opposition, though both have acted in good faith.
2. Bad faith is said to be the awareness of the damage that the act is able to cause to the creditor.

ARTICLE 547
(Subsequent transfers or subsequent constitution of rights)

1. Opposition shall prevail over subsequent transfers in case:
a) Requirements for opposition referred to in the previous articles have occurred with respect to the first transfer;
b) Both the seller and the subsequent purchaser have acted with bad faith, if the new transfer is an onerous one.
2. Provisions of the previous paragraph shall apply, with the necessary adaptations, to the constitution of rights over property transferred to a third party.

ARTICLE 548
(Credits not fallen due or under a suspensive condition)

1. The fact a creditor's right is not yet exigible shall not prevent opposition from being exercised.
2. Creditor under a suspensive condition may demand, so long as this one has not yet occurred, the rendering of a bond in case opposition requirements have been met.

ARTICLE 549
(Opposable acts)

1. Nullity of the act performed by debtor shall not prevent it from being repudiated.
2. Fulfilment of an obligation fallen due shall not be susceptible of opposition; but fulfilment of both the obligation not yet exigible and the natural obligation shall be susceptible of opposition.

ARTICLE 550
(Effects with respect to the creditor)

1. Once opposition has been granted, creditor shall have the right of being given back property to the extent of his or her interest and may execute it at its original location and perform such acts for the maintenance of patrimonial security as permitted by law.
2. Purchaser in bad faith shall be liable for the value of property which he has disposed of, as well as of the one which has perished or deteriorated accidentally, unless he proves that the loss or deterioration would have also occurred in case property had been in debtor's possession.
3. Purchaser in good faith shall only be liable to the extent of his or her enrichment.
4. Opposition effects shall only benefit the creditor who has requested it.

ARTICLE 551
(Relationship between the debtor and a third party)

1. Once opposition has been granted, if the repudiated act is a gratuitous one, debtor shall only be liable towards the purchaser in terms of the rules applicable to gifts; in case of an onerous act, purchaser shall only have the right to demand from the debtor what he has been enriched with.
2. Rights which a third party has acquired against the debtor shall not affect creditor's rights satisfaction over the property which is given back.

ARTICLE 552
(Forfeiture)

Opposition right shall forfeit within five years from the opposable act's date.

SUBSECTION III Seizure

ARTICLE 553
(Requirements)

1. Creditor who has a well-grounded fear of loosing his or her credit's patrimonial security may request the seizure of debtor's property, in terms of procedural law.
2. Creditor shall have the right to request seizure against debtor's property purchaser in case transfer has been judicially repudiated.

ARTICLE 554
(Bond)

Seizure petitioner shall be bound to render a bond in case the court demands it from him or her.

ARTICLE 555
(Creditor's liability)

In case seizure is deemed to be unjustified by court's decision or forfeits, the petitioner shall be liable for damage caused to the seized person if he has not acted with the required caution.

ARTICLE 556
(Effects)

1. Acts of disposal of seized property shall be ineffective towards seizure petitioner, according to specific attachment rules.
2. The remaining effects of attachment shall apply, where appropriate, to the seizure.

CHAPTER VI Special securities of obligations

SECTION I
Rendering of a bond

ARTICLE 557
(Bond required or permitted by law)

1. In case anyone is bound or allowed by law to render a bond without its kind has been determined, security may be rendered by means of a deposit of cash, securities, precious stones or metals or of a pledge, mortgage or bank suretyship.
2. In case bond cannot be rendered by any one of the referred possibilities, any other kind of suretyship may be rendered as long as the surety waives to discussion.
3. The court shall be competent to assess bond's suitability whenever the interested parties do not agree to.

ARTICLE 558
(Bond arising from a legal transaction or a court's order)

1. In case anyone is bound or allowed by a legal transaction to render a bond or if a court has imposed one on him, he may render it by means of any security, be it a real one or a personal one.
2. In such cases, paragraph 3 of the previous article shall apply.

ARTICLE 559
(Lack of bond rendering)

1. In case he who is bound to render a bond has not so done, creditor shall have the right to request a mortgage registration over debtor's property or other suitable precaution, unless another solution has been especially given thereto by law.
2. Security shall be limited to property deemed to be enough to secure creditor's right.

ARTICLE 560
(Insufficiency or unsuitability of bond)

When the rendered bond becomes insufficient or unsuitable for a cause not imputable to the creditor, the latter shall have the right to demand bond's strengthening or the rendering of another kind of bond.

SECTION II
Suretyship

SUBSECTION I
General provisions

ARTICLE 561
(Concept. Accessory nature)

1. Surety secures credit right satisfaction and becomes personally bound towards the creditor.
2. Surety's liability is accessory to that of the principal debtor.

ARTICLE 562
(Requirements)

1. The willingness to give rise to suretyship shall be expressly declared under such form as required for the principal obligation.
2. Suretyship may rise without debtor's knowledge or against his or her will and the fact obligation is a future one or a conditional one shall not prevent suretyship from being delivered.

ARTICLE 563
(Credit mandate)

1. He who instructs another one to grant credit to a third party in the instructed person's own name and for this one's own account shall be liable as surety, if instruction is followed.
2. Instructor may revoke mandate so long as credit is not yet granted and may terminate it without detriment to his or her liability for the damage he may have caused.
3. The instructed person may refuse mandate fulfillment whenever patrimonial situation of the other contracting parties may put at risk his or her future right.

ARTICLE 564
(Suretyship's suretyship)

A surety for the surety is the one who stands surety for the surety towards the creditor.

ARTICLE 565
(Scope of suretyship)

1. Suretyship cannot exceed the principal debt nor be contracted under more onerous conditions, but may be contracted for a lower quantity or under less onerous conditions.
2. Suretyship exceeding the principal debt or having been contracted under more onerous conditions shall only be valid to the extent of the principal obligation.

ARTICLE 566
(Invalidity of the principal obligation)

1. Suretyship shall only be valid on a principal obligation.
2. Nevertheless, in case principal obligation is made null and void for inability or for lack or distortion of debtor's will, suretyship shall remain valid if surety was aware of the voidableness cause at the time suretyship has been rendered.

ARTICLE 567
(Surety's capacity. Suretyship strengthening)

1. In case a debtor is bound to indicate a surety, creditor may refuse any designated person who has no capacity to bind himself or herself or not enough property to secure obligation.
2. In case the appointed surety's wealth has decreased so that there is a risk of insolvency, creditor may demand suretyship strengthening.
3. In case debtor has not strengthened suretyship nor rendered any other capable security within the time limit set by court, creditor has the right to demand the immediate obligation fulfilment.

SUBSECTION II
Relationship between creditor and surety

ARTICLE 568
(Surety's obligation)

Suretyship has the same content as the principal obligation and leads to liability for the legal and contractual effects of debtor's delay or fault.

ARTICLE 569
(Definitive judicial decision)

1. A definitive and obligatory judicial decision regarding to creditor and debtor shall not be opposable to the surety, but the latter may invoke it for his or her own benefit, unless it concerns such debtor's personal circumstances that shall not exclude surety's liability.
2. A definitive and obligatory judicial decision regarding to creditor and surety may benefit debtor provided it concerns the principal obligation, but shall not affect an unfavourable judicial decision.

ARTICLE 570
(Prescription: interruption, suspension and waiver)

1. Prescription interruption with respect to the debtor shall not be effective against surety, nor shall interruption with respect to the latter be effective against the former; but in case creditor has interrupted prescription against the debtor and has notified the surety thereof, prescription shall be deemed to have been interrupted against the latter on the date of notification.
2. Prescription suspension with respect to the debtor shall not be effective towards surety, nor shall suspension with respect to the latter be effective towards the former.
3. Waiver of prescription on the part of one of the obligors shall not be effective towards the other one either.

ARTICLE 571
(Surety's defences)

1. Besides his or her specific defences as a surety, this one has the right to oppose the creditor all defences competent to the debtor unless they are not compatible with surety's obligation.
2. Debtor's waiver of any defence shall not be effective against the surety.

ARTICLE 572
(Discussion)

1. Surety may refuse fulfilment so long as creditor has not discussed all of debtor's property without obtaining his or her credit satisfaction.
2. Surety may also refuse fulfilment though all of debtor's property has been discussed, in case he proves that the credit has not been satisfied through creditor's fault.

ARTICLE 573
(Discussion in case of real securities)

1. In case there is a real security, contemporary of suretyship or prior thereto, constituted by a third party to secure the same debt, surety shall have the right to demand things upon which real security has been made to be put in execution.
2. When the burdened things secure other credits of the same creditor, provision of the previous paragraph shall only apply in case its value will be enough to satisfy all of them.
3. After being executed, real security's author shall not get subrogated to creditor's rights against surety.

ARTICLE 574
(Exclusion of previous benefits)

Surety cannot invoke the benefits referred to in the previous articles:
a) If he or she has waived the right to require execution and, especially, if he or she has assumed a principal payer's obligation;
b) If the debtor or the owner of things burdened with the security may not be demanded or executed in the national territory by virtue of a fact occurred after suretyship constitution.

ARTICLE 575
(Debtor call into litigation)

1. Although surety has the right of discussion, creditor may demand him alone or together with the debtor; in case he or she is demanded alone, though he has no discussion right, surety may call debtor to take part in the litigation, so that he or she can defend himself or herself or be condemned together with him or her.
2. Unless expressly declared to the contrary in the proceeding, the fact debtor has not been called into litigation determines waiver of discussion.

ARTICLE 576
(Other surety's defences)

1. Surety may refuse fulfilment so long as creditor's right will be able to be satisfied by set-off against a debtor's credit or the latter will be able to satisfy his or her debt by set-off against a creditor's debt.
2. Surety may also refuse fulfilment so long as debtor will have the right to repudiate the legal transaction from which his or her obligation emanates.

ARTICLE 577
(Surety for the surety)

A surety for the surety shall have the right of discussion towards both the surety and the debtor.

SUBSECTION III
Relationship between debtor and surety

ARTICLE 578
(Subrogation)

Surety who has fulfilled the obligation shall get subrogated to creditor's rights to the extent that the latter have been satisfied by him.

ARTICLE 579
(Notice of fulfilment to debtor)

1. Surety who has fulfilled the obligation shall give notice thereof to the debtor, at risk of loosing his or her right against the latter in case the debtor, by mistake, renders the consideration again.
2. Surety who, in terms of previous paragraph, has lost his or her right against the debtor may recover the consideration rendered to the creditor as it had been unduly made.

ARTICLE 580
(Notice of fulfilment to the surety)

Debtor who has fulfilled the obligation shall give notice thereof to the surety, at risk of being liable for the damage he may cause if he fails to do it in a faulty way.

ARTICLE 581
(Defences)

Debtor who has agreed to surety fulfilment or, once being given notice by the latter, has unjustifiably not informed him or her of the defences he might oppose to the creditor may not oppose such defences against the surety.

ARTICLE 582
(Right to discharge or to bond rendering)

Surety shall be allowed to demand his or her discharge or a bond rendering to secure his or her eventual right against the debtor in the following cases:
a) If creditor has obtained an executable judgment against the surety;
b) If suretyship risks have visibly increased;
c) If, after suretyship assumption, debtor has put himself or herself into the situation foreseen under article 574, paragraph b);
d) If debtor has committed himself or herself to discharge the surety within a certain time limit or once a certain event has occurred and the time limit has been reached or the foreseen event has occurred;
e) If a five-year period has elapsed and the principal obligation has not a time limit or, in case it has one, this one has been statutorily extended in favour of any one of the parties.

SUBSECTION IV Plurality of sureties

ARTICLE 583
(Liability towards the creditor)

1. In case different people have separately stood surety for the debtor for the same debt, each of them shall be liable for the whole satisfaction of the credit unless division benefit has been agreed; in such case, the rules for joint and several obligations shall apply with the pertinent reservations.
2. In case sureties have bound themselves jointly though in different moments, any of them may invoke division benefit, but each of them shall be proportionally liable for the share of the insolvent co-surety.
3. Surety who may not be demanded in terms of article 574, paragraph b) shall be treated similarly to the insolvent surety.

ARTICLE 584
(Relationship between sureties and sureties for the sureties)

1. In case there are different sureties each of them being liable for the whole consideration, the one who has fulfilled shall get subrogated to creditor's rights against the debtor and, in accordance with the rules applicable to the joint and several obligations, against the other sureties.
2. In case surety who had been judicially demanded has fulfilled the whole obligation or a part thereof which is higher than his or her share though he might have invoked the division benefit, he shall have the right to claim the shares of the remaining sureties against themselves for the amounts he has paid in excess although the debtor is not insolvent.
3. In case surety, though he might have invoked division benefit, has voluntarily fulfilled the obligations in terms foreseen in previous paragraph, his or her right of recovery against the other sureties shall only be permitted after all of debtor's property has been discussed.
4. In case any one of the sureties will have a surety for the surety, the latter shall not be liable towards the other sureties for the share of the former if this one becomes insolvent, unless stipulated to the contrary in the suretyship for the suretyship contract.

SUBSECTION V
Extinguishment of suretyship

ARTICLE 585
(Extinguishment of principal obligation)

The extinguishment of the principal obligation determines the suretyship's extinguishment.

ARTICLE 586
(Principal obligation fallen due)

1. In case principal obligation has a time limit, surety who has the right of discussion may demand the creditor, once obligation is fallen due, to sue the debtor within two months therefrom at risk of suretyship forfeiture; this time limit shall not be reached before a month has elapsed after notification to the creditor.
2. Surety who has the right of discussion may demand creditor to demand the debtor at similar risk, when obligation depends thereon to be fallen due and over a year has passed after suretyship assumption.

ARTICLE 587
(Discharge due to subrogation impossibility)

Sureties, although jointly and severally liable, shall become discharged from the obligation they have contracted to the extent that, for a positive or a negative fact on the part of the creditor, they might not get subrogated to the rights competent to the latter.

ARTICLE 588
(Future obligation)

In case suretyship is rendered to secure a future obligation, surety shall have, so long as obligation is not constituted, the possibility of discharging himself or herself from the security if debtor's patrimonial situation has been made worse in such a way that it can risk his or her eventual rights against the latter, or if a five-year period after suretyship has been rendered has passed, unless another time limit has been agreed.

ARTICLE 589
(Suretyship for lessee's obligations)

1. Unless stipulated to the contrary, the suretyship for lessee's obligations shall only concern the initial period of the contract.
2. In case surety has undertaken obligations in respect of the renewal periods without its number have been limited, suretyship shall be extinguished if a new agreement is not reached, as soon as a rent updating has occurred or a five-year period following first renewal's beginning has elapsed.

SECTION III
Income consignment

ARTICLE 590
(Concept)

1. Fulfilment of an obligation, although a conditional one or a future one, may be secured through the consignment of income from certain immovable property or certain movable property subject to registration.
2. Income consignment may secure obligation fulfilment and interest payment, or just obligation fulfilment or interest payment, separately.

ARTICLE 591
(Legitimacy. Consignment constituted by a third party)

1. Only he who may dispose of consigned income shall have legitimacy to constitute a consignment.
2. Provisions of article 651 shall apply to consignment constituted by a third party.

ARTICLE 592
(Kinds)

1. Consignment may be voluntary or judicial.
2. A voluntary consignment is the one which is constituted by the debtor or a third party either by means of a contract inter vivos or through a will, and a judicial consignment is the one which comes from a judicial decision.

ARTICLE 593
(Time limit)

1. Income consignment may be made to last for a certain number of years or until payment of the secured debt.
2. When consignment concerns immovable property income, it shall never exceed a 15-year time limit.

ARTICLE 594
(Form. Registration)

1. The constitutive act of voluntary consignment shall be reported in a public deed or a will when it concerns immovable property or in an act under private signature when it concerns movable property.
2. Consignment is subject to registration, unless it regards to the income of nominative securities, and in this case it shall be mentioned therein and registered in terms of the applicable law.

ARTICLE 595
(Modalities)

1. In consignment it may be stipulated that:
a) Property whose income is consigned will remain in grantor's possession;
b) Property will shift to creditor's possession, who shall be treated, where applicable, similarly to a lessee, but he may in turn lease it;
c) Property will shift to a third party's possession, on the basis of a lease or another one, and the creditor will have the right to be paid the respective earnings.
2. First of all, a thing's earnings pay the interest and then the capital in case consignment secures both capital and interest.

ARTICLE 596
(Accountability)

1. In case property remains in grantor's possession, creditor shall have the right of demanding him a yearly rendering of account if he is not to be paid a flat amount for each period.
2. Grantor has the same right towards the creditor in the remaining cases foreseen under the previous article, paragraph 1.

ARTICLE 597
(Creditor's obligations. Waiver of security)

1. In case property whose income is consigned shifts to creditor's possession, the latter shall manage it as a diligent owner and pay taxes and other charges related to things.
2. Creditor may only discharge himself or herself from the obligations referred to in the previous paragraph if he waives the security.
3. Article 665 shall apply to the waiver.

ARTICLE 598
(Extinguishment)

Consignment shall become extinguished as its stipulated time limit is reached as well as for the same causes through which mortgage right ceases, with exception to the one indicated in article 664, paragraph b).

ARTICLE 599
(Cross-reference)

Articles 626, 628 to 630, 635 and 636 shall apply to consignment with the necessary adaptations.

SECTION IV
Pledge

SUBSECTION I
General provisions

ARTICLE 600
(Concept)

1. Pledge grants the creditor the right to satisfaction of his or her credit as well as of interest, if any, with a preference over the other creditors, for the value of a certain movable thing or for the value of credits or other rights not susceptible of mortgage belonging to the debtor or a third party.
2. Deposit referred to in article 557, paragraph 1, is deemed to be a pledge.
3. Obligation secured by pledge may be future or conditional.

ARTICLE 601
(Legitimacy to pledge. Pledge constituted by a third party)

1. Legitimacy to pledge property shall only belong to whom who may dispose of it.
2. Provisions of article 651 shall apply to the pledge constituted by a third party.

ARTICLE 602
(Special regimes)

Provisions of this section shall not affect special statutory regimes applicable to certain kinds of pledge.

SUBSECTION II
Pledge of things

ARTICLE 603
(Constitution of pledge)

1. Pledge shall only be effective through delivery of the pledged thing to the creditor or a third party or of a document which grants him the exclusive right of disposal thereof.
2. Delivery may consist of a simple attribution of joint possession to the creditor if that attribution prevents the possibility that the pledge's author may physically dispose of the thing.

ARTICLE 604
(Rights of the pledge creditor)

By means of a pledge, the pledge creditor shall acquire the right to:
a) Use, in respect to the pledged thing, every action aimed at possession defence though it may be against its very owner;
b) Be paid damages for repairs and ameliorating wastes and take back the latter, in terms of article 1193;
c) Demand replacement or strengthening of the pledge or the immediate fulfilment of obligation, in case the pledged thing has perished or has become insufficient to secure the debt, in terms applicable to mortgage security.

ARTICLE 605
(Duties of the pledge creditor)

Pledge creditor shall be bound:
a) To keep and manage the pledged thing as a diligent owner, being liable for its existence and preservation;
b) Not to use it without pledge author's consent, unless such use is necessary for the preservation of the pledged thing;
c) To give back the thing once obligation which it secures has been extinguished.

ARTICLE 606
(Earnings of the pledged thing)

1. The earnings of the pledged thing shall be applied in the expenses incurred on account thereof and interest fallen due, whereas the surplus shall be deducted from the owed capital unless agreed to the contrary.
2. In case there are earnings to be given back, they shall not be deemed to be covered by the pledge, unless agreed to the contrary.

ARTICLE 607
(Use of the pledged thing)

In case creditor has made use of the pledged thing infringing article 605, paragraph b), or has acted in such a way that the thing runs the risk of being lost or deteriorating, the pledge author shall have the right to demand that the former renders an appropriate bond or that the thing be put in a third party's possession.

ARTICLE 608
(Early sale)

1. Whenever there is a well-grounded fear that the pledged thing can be lost or deteriorate, creditor as well as the pledge author may sell the thing in anticipation thereof under previous judicial permission.
2. Creditor shall have the rights over the sale proceeds which were competent to him with respect to the sold thing, but the court may order that the price be deposited.
3. Pledge author may prevent the thing from being sold in anticipation by rendering another appropriate real security.

ARTICLE 609
(Pledge put in execution)

1. Once obligation is fallen due, creditor shall acquire the right to be paid from the proceeds of the judicial sale of the pledged thing, and sale may be done extrajudicially if the parties have so agreed.
2. The interested parties may agree that the pledged thing be awarded to the creditor for the value set by the court.

ARTICLE 610
(Assignment of security)

1. Pledge right may be transferred irrespective of the credit assignment and mortgage transfer rules shall apply herein, with the necessary adaptations.
2. Article 517, no 2 shall apply to the delivery of the pledged thing to the assignee.

ARTICLE 611
(Extinguishment of pledge)

Pledge shall become extinguished as the pledged thing or the document referred to in article 603 , paragraph 1, has been given back as well as for the same causes through which mortgage right ceases, except that mentioned in article 664 , subparagraph b).

ARTICLE 612
(Cross-reference)

Articles 626, 628 to 633, 635 and 636 shall apply to the pledge, with the necessary adaptations.

SUBSECTION 3
Pledge of rights

ARTICLE 613
(Applicable provisions)

Provisions of the previous subsection shall apply to the pledge of rights, with the necessary adaptations, in everything that be not opposed by the special nature of this kind of pledge or by the provisions of the following articles.

ARTICLE 614
(Object)

Pledge of rights shall only be permitted when these ones concern movable property and are susceptible of transfer.

ARTICLE 615
(Form and publicity)

1. Constitution of a pledge of rights shall be subject to such form and publicity requirements as applicable to the transfer of pledged rights.
2. Nevertheless, if it concerns a credit, the pledge shall only be effective provided it has been notified to the respective debtor or this one has accepted it, except in respect of a pledge subject to registration, for in this case it shall be effective as from the registration date.
3. Ineffectiveness of pledge for lack of notification or registration shall not prevent article 518, paragraph 2, from applying herein with the necessary adjustments.

ARTICLE 616
(Delivery of documents)

The holder of the pledged right shall deliver to the pledge creditor the documents proving that right which may be in his or her possession and which he has no legitimate interest to keep.

ARTICLE 617
(Preservation of the pledged right)

Pledge creditor shall perform the necessary acts for the preservation of the pledged right and collect interest and other accessory considerations included in the security.

ARTICLE 618
(Relationship between the obligor and the pledge creditor)

In giving a right in pledge by virtue of which someone may demand a consideration, relationship between the obligor and the pledge creditor shall be subject to the provisions applicable, as to credits assignment, to the relationship between the debtor and the assignee.

ARTICLE 619
(Collection of pledged credits)

1. Pledge creditor shall collect the pledged credit as soon as the latter becomes demandable and then the pledge shall concern the thing rendered in satisfaction of that credit.
2. Nevertheless, in case credit regards to a consideration of money or another fungible, debtor may only perform it to both creditors all together; in case there is no agreement between the interested parties, the obligor may make use of consignment.
3. In case the same credit concerns different pledges, just the creditor whose credit prefers over the remaining ones shall have legitimacy to collect the pledged credit; but the others may compel the debtor to satisfy consideration to the preferring creditor.
4. The holder of the pledged credit may only receive the respective consideration with pledge creditor's consent and in this case the pledge shall extinguish.

SECTION V
Mortgage

SUBSECTION I
General provisions

ARTICLE 620
(Concept)

1. Mortgage grants the creditor the right to be paid for the value of certain immovable thing or comparable thereto belonging to the debtor or a third party with a preference over the other creditors who have no special privilege or registration priority.

2. Obligation secured by mortgage may be future or conditional.

ARTICLE 621
(Registration)

Mortgage shall be registered even towards the parties at risk of not being effective.

ARTICLE 622
(Object)

1. The only items which may be mortgaged are the following ones:
a) Land and town property;
b) Direct ownership and useful ownership of fee-farm property;
c) Right of superficies;
d) The right arising from concessions regarding to property of public ownership, in compliance with statutory provisions in respect of the transfer of the granted rights;
e) Usufruct of things and rights referred to in the previous subparagraphs;
f) Movable property which, for this purpose, is treated similarly to the immovable one.
2. The parts of a property susceptible of becoming autonomous property without loosing their nature of immovable property may be separately mortgaged.

ARTICLE 623
(Common assets)

1. The share of a common thing or right shall also be susceptible of mortgage.
2. Division of a common thing or right made with creditor's consent shall limit mortgage to the part belonging to the debtor.

ARTICLE 624
(Excluded assets)

The marriage portion cannot be mortgaged, nor the share of an undivided inheritance.

ARTICLE 625
(Scope)

1. Mortgage covers:
a) Movable things referred to in article 195, paragraph 1, subparagraphs c) to e);
b) Natural accessions;
c) Improvements, except the right of third parties.
2. As to the mortgage of factories, machinery and other movables listed in the constitutive title are deemed to be covered by the security although they are not component parts of the respective immovables.
3. Owners and possessors of machinery, movables and tools for factory's working covered by the registration of the respective immovables mortgage may not dispose of or remove them without creditor's written consent and incur in the specific liability of custodians.

ARTICLE 626
(Indemnities due)

1. In case the mortgaged thing or right has been lost, deteriorated or depreciated, its owner having the right of being indemnified, the security holders shall keep, over the respective credit or amounts paid as an indemnity, the preferences competent to them in respect of the burdened thing.
2. After being notified of the mortgage existence, the indemnity debtor shall not discharge his or her obligation by fulfilment to the detriment of the rights conferred under the previous paragraph.
3. Provisions of the previous paragraphs shall apply to indemnities due for expropriation or requisition and for the extinguishment of superficies right as well as to the price of fee-farm rent redemption and to similar cases.

ARTICLE 627
(Credit accessories)

1. Mortgage shall secure credit accessories reported in the registration.
2. In case of interest, mortgage shall never cover, even if agreed to the contrary, more than that one concerning three years.
3. Provision of previous paragraph shall not prevent the registration of new mortgage with respect to interest due.

ARTICLE 628
(Binding agreement)

An agreement by which creditor will become owner of the burdened thing in case debtor does not fulfil his or her obligation shall be null and void even if it is prior or subsequent to mortgage constitution.

ARTICLE 629
(Clause of indisposability of mortgaged assets)

Any agreement forbidding an owner from disposing of or burdening his or her mortgaged assets shall also be null and void though it may be agreed that the mortgage credit will fallen due as soon as those assets have been disposed of or burdened.

ARTICLE 630
(Indivisibility)

Unless agreed to the contrary, mortgage shall be indivisible and shall remain as a whole over each one of the burdened things and each of its component parts, though the thing or the credit may be divided or the latter have been partially satisfied.

ARTICLE 631
(Pledge of assets)

Debtor who is owner of the mortgaged thing shall have the right to oppose not only that other assets may be pledged when execution is levied, but also that, with respect to the burdened assets, execution may exceed what is strictly needed to satisfy creditor's right.

ARTICLE 632
(Defence of the thing owner or of the right holder)

1. Whenever the thing owner or the mortgaged right holder is not the same person as the debtor, he may oppose the creditor debtor's defences against the credit although the latter has waived them, except those which are refused to the surety.
2. The owner or the holder referred to in the previous paragraph may oppose execution, so long as the debtor may repudiate the legal transaction from which his or her obligation arises or the creditor may be satisfied by set-off with a debtor's credit, or the latter may use set-off with a creditor's debt.

ARTICLE 633
(Mortgage and usufruct)

1. As the usufruct over the mortgaged thing is extinguished, then the right of the mortgage creditor shall concern the thing as if the usufruct had never been constituted.
2. In case mortgage concerns the usufruct right, it shall be deemed to be extinguished as this right extinguishes.
3. Nevertheless, in case usufruct extinguishment arises from a waiver or from the transfer of usufructuary rights to the owner, or from the requisition of ownership by that one, mortgage shall remain as if the right extinguishment had not occurred.

ARTICLE 634
(Management of the mortgaged thing)

Cutting of trees or bushes, gathering of natural fruits and disposition of component parts or accessory things covered by mortgage shall only be effective towards the mortgage creditor in case they have occurred prior to the attachment registration and have been performed under ordinary management powers.

ARTICLE 635
(Replacement or strengthening of mortgage)

1. When, for a cause not imputable to the creditor, mortgaged thing has perished or mortgage has become insufficient to secure obligation, the creditor shall have the right of demanding the debtor to replace or strengthen it; and if the latter does not so do in terms of procedural law, the former may demand immediate fulfilment of obligation or in case of a future obligation may register a mortgage over other debtor's assets.
2. The fact that mortgage has been constituted by a third party shall not stop creditor's right unless debtor is unaware of that fact; nevertheless, if even in this case security diminution is due to a third party's fault, creditor shall have the right to demand the latter to replace or strengthen it at risk that the effect prescribed by the previous paragraph shall apply to the third party instead of the debtor.

ARTICLE 636
(Insurance)

1. When the debtor had committed himself or herself to insure the mortgaged thing and has not so done in due time or has let the contract be rescinded for lack of payment of the insurance premiums, creditor may insure it at debtor's expense; but in case he has so done paying an excessive value, debtor may demand contract reduction within the appropriate limits.
2. In the cases foreseen under the previous paragraph, creditor may claim the immediate fulfilment of the obligation instead of the insurance.

ARTICLE 637
(Kinds of mortgage)

Mortgages are statutory, judicial or voluntary.

SUBSECTION II
Statutory mortgages

ARTICLE 638
(Concept)

Statutory mortgages result directly from law, irrespective of the parties' will, and may be constituted as long as the obligation they secure exists.

ARTICLE 639
(Creditors having a statutory mortgage)

Creditors having a statutory mortgage are the following ones:
a) State and local authorities, over assets whose income is subject to immovable property tax as a way of securing his or her tax payment;
b) State and other public entities, over assets of public funds managers as a way of securing fulfilment of obligations for which they are liable;
c) The minor, the interdicted person and the incapacitated person, over guardian's, trustee's and statutory manager's property as a way of securing their liability in the referred capacities;
d) Alimony creditor;
e) The co-heir, over the assets awarded to the debtor of property to be returned as a way of securing due payment;
f) The legatee of money or of other fungible, over the assets subject to the legacy obligations or, if there is none, over the assets that the liable heirs have inherited from the testator.

ARTICLE 640
(Mortgage registration in favour of incapacitated persons)

1. The value determination of a mortgage constituted in favour of a minor, an interdicted person or an incapacitated person for the registration purpose and the indication of assets over which mortgage will be registered shall be competent to the family council.
2. Guardian, trustee or statutory manager as well as the members of the family council and any of the incapacitated person's relatives shall have legitimacy to request registration.

ARTICLE 641
(Replacement by another bond)

1. The court may authorize, under debtor's request, the replacement of the statutory mortgage by another bond.
2. In case debtor has not enough assets to secure the credit which may be susceptible of mortgage, creditor may demand another bond in terms of article 559, except in the case of mortgages aimed to secure payment in respect of property to be returned or of a legacy of money or other fungible.

ARTICLE 642
(Assets subject to a statutory mortgage)

Without detriment to the right of reduction, statutory mortgages may be registered with respect to any of debtor's assets when assets subject to the security have not been specified by law or in their respective title.

ARTICLE 643
(Strengthening)

Creditor shall only have the right to strengthen mortgages foreseen under article 639, subparagraphs e) and f), in case security will keep concerning the assets therein specified.

SUBSECTION III
Judicial mortgages

ARTICLE 644
(Constitution)

1. Judgment condemning debtor to render a consideration in money or other fungible shall constitute enough title for mortgage registration over any of obligor's assets though it has not been a definitive judicial decision.
2. In case consideration is not liquid, mortgage may be registered for the probable amount of credit.
2. In case debtor has been condemned to deliver or accomplish a fact, mortgage may be only registered after consideration has been converted into a pecuniary indemnity.

ARTICLE 645
(Foreign judgments)

Judgments of foreign courts reviewed and confirmed in East Timor may entitle to a judicial mortgage registration insofar as the law of the country where they have been pronounced confers them an equal value.

SUBSECTION IV Voluntary mortgages

ARTICLE 646
(Concept)

Voluntary mortgage is the one which arises from a contract or a unilateral declaration.

ARTICLE 647
(Second mortgage)

Mortgage shall not prevent the assets owner from mortgaging them again; in this case, once one of the mortgages is extinguished, then the assets shall secure the remaining mortgage debts on the whole.

ARTICLE 648
(Form)

The constitutive or modifying act of voluntary mortgage when concerning immovable property shall be reported in a public deed or a will.

ARTICLE 649
(Legitimacy to mortgage)

Legitimacy to mortgage shall only belong to whom who may dispose of the respective assets.

ARTICLE 650
(General mortgages)

1. Voluntary mortgages regarding to all of debtor's or all of a third party property without specifying it shall be null and void.
2. Specification shall be reported in the mortgage constitutive title.

ARTICLE 651
(Mortgage constituted by a third party)

1. Mortgage constituted by a third party shall extinguish insofar as his or her subrogation to creditor's rights cannot occur as a result of a positive or a negative fact on the part of the latter.
2. A definitive and obligatory judicial decision with respect to the debtor shall be effective towards a third party who has constituted the mortgage in the same terms as it is effective towards the surety.

SUBSECTION V
Mortgage reduction

ARTICLE 652
(Modalities)

Mortgage may be reduced whether voluntarily or judicially.

ARTICLE 653
(Voluntary reduction)

Only the one who may dispose of mortgage may consent to voluntary reduction and the regime established for the waiver of security shall apply to reduction.

ARTICLE 654
(Judicial reduction)

1. Judicial reduction shall take place, with respect to statutory and judicial mortgages, under request of any interested party whether in respect of assets or in what concerns the credit amount, except if the burdened thing or the secured amount has been specially indicated in an agreement or a judgment.
2. In the case foreseen under the last part of previous paragraph or in what relates to voluntary mortgage, judicial reduction shall only be permitted:
a) If the debt has diminished to less than two thirds of its initial amount, as a result of a partial fulfilment or another cause of extinguishment;
b) If the mortgaged thing or right has appreciated by more than one third of its value at the time of mortgage constitution, by virtue of natural accessions or improvements.
3. Reduction shall be performable, in respect of assets, though mortgage concerns one sole thing or right, provided that the thing or the right is susceptible of an easy division.

SUBSECTION VI
Transfer of mortgaged assets

ARTICLE 655
(Mortgage redemption)

The person who has acquired mortgaged assets, has registered the acquisition title and is not personally liable for secured obligations fulfilment shall have the right to redeem mortgage in any of the following ways:
a) Paying entirely the mortgage creditors the debts secured by mortgaged assets;
b) Declaring he is prompt to deliver to the creditors, for the purpose of paying their credits, up to the amount he has paid for the assets, or the one at which he estimates them, whenever the acquisition has been performed for free or a price has not been set.

ARTICLE 656
(Redemption in case of gift revocation)

The right of redemption shall apply to the donor or his or her heirs with respect to the assets mortgaged by the donee which have come into their possession as a result of the revocation of the donation due to the donee’s ingratitude, or as a result of its deduction due to inofficious gifts

ARTICLE 657
(Creditors' rights as to redemption)

1. Judgment declaring assets freed from mortgages as a result of redemption shall not be pronounced without showing that all mortgage creditors have been noticed.
2. Creditor who, having registered his or her mortgage, has not been noticed nor has spontaneously appeared in court shall not lose his or her mortgage creditor's rights whichever has been the judgment pronounced as for the other creditors.
3. In case the petitioner of redemption has not deposited the amount due in terms of procedural law, the request shall have no effect and cannot be renewed, without detriment to the petitioner's liability for the damage caused to the creditors.

ARTICLE 658
(Property rights which revive through judicial sale)

1. In case the acquirer of a mortgaged thing has had, prior to the acquisition, any property right over it, that right shall revive in case of a sale under an execution procedure or of mortgage redemption and shall be treated in accordance with the statutory rules concerning that sale.
2. Easements burdening any property belonging to a third party acquirer for the benefit of the mortgaged property at the time of mortgage registration shall revive likewise and be included in the sale.

ARTICLE 659
(Mortgage right against the acquirer exercised in advance)

Mortgage creditor may exercise his or her right against the acquirer of the mortgaged thing or right before time limit is reached in case credit's security has diminished through the latter's fault.

ARTICLE 660
(Improvements and earnings)

For the purposes of articles 1189, 1190 and 1195, the third party acquirer shall be deemed to be a possessor in good faith until the attachment registration as to execution and until the judicial sale of the thing or the right as to mortgage redemption.

SUBSECTION VII
Mortgage transfer

ARTICLE 661
(Mortgage assignment)

1. Mortgage which is not inseparable from debtor's person may be assigned before the credit is satisfied to secure a credit belonging to another creditor of the same debtor, in accordance with the specific rules of credits assignment; nevertheless, in case the mortgaged thing or right belongs to a third party, this one's consent shall be necessary.
2. Creditor who has a mortgage over more than one thing or right may only assign it to the same person and on the whole.

ARTICLE 662
(Value of the assigned mortgage)

1. The assigned mortgage shall secure the new credit within the limits of the originally secured credit.
2. Once assignment is registered, the extinguishment of the original credit shall not affect the mortgage continuity.

ARTICLE 663
(Assignment of the mortgage level)

Assignment of the mortgage level in favour of any other mortgage creditor subsequently registered over the same assets shall also be permitted, in accordance with the rules concerning the assignment of the respective credit as well.

SUBSECTION VIII
Mortgage extinguishment

ARTICLE 664
(Extinguishment causes)

Mortgage shall extinguish:
a) By extinguishment of the obligation which it secures;
b) By prescription in favour of a third party who has acquired the mortgaged property, after twenty years have elapsed since the acquisition registration and five since obligation has fallen due;
c) By perishment of the mortgaged thing, without detriment to articles 626 and 635;
d) By creditor's waiver.

ARTICLE 665
(Mortgage waiver)

1. Waiver of a mortgage shall be express and registered in a certified document and shall not need debtor's or mortgage author's acceptance to take effect.
2. Trustees cannot waive mortgages constituted in benefit of whom whose assets they manage.

ARTICLE 666
(Mortgage revival)

In case the extinctive cause of obligation or the creditor's waiver has been declared null and void or made such or for another reason has no longer any effect, mortgage shall only revive since the new registration date if the previous registration has been cancelled.

SECTION VI
Creditors' privileges

SUBSECTION I
General provisions

ARTICLE 667
(Concept)

Creditors' privilege is the faculty which the law, considering the credit's cause, grants to certain creditors of being paid ahead of other creditors irrespective of registration.

ARTICLE 668
(Credit accessories)

Creditors' privilege shall cover interest concerning the last two years in case of being due.

ARTICLE 669
(Kinds)

1. There are two kinds of creditors' privileges: movable and immovable.
2. Movable privileges are general, if they concern the value of all movables belonging to the debtor at the time of attachment or any comparable act; and they are special with regard to the value of certain movables only.
3. Immovable privileges are always special.

SUBSECTION II
General privileges over movables

ARTICLE 670
(Credits of state and local authorities)

1. State and local authorities shall have a general privilege over movables to secure credits concerning indirect taxes as well as direct taxes registered for collection in the current year at the time of attachment or any comparable act and in the two previous years.
2. This privilege shall not cover any direct tax over onerous transfers of property rights on immovables as well as any direct tax over gratuitous transfers of property rights on immovables and movables, nor any other taxes enjoying a special privilege.

ARTICLE 671
(Other credits enjoying a general privilege over movables)

1. The following credit rights shall enjoy a general privilege over movables:
a) The credit concerning expenses with debtor's funeral, according to his or her social status and local usages;
b) The credit concerning expenses with debtor's illnesses or those of the ones towards whom he has the obligation of rendering alimony with respect to the last six months;
c) The credit concerning the necessary expenses with debtor's maintenance and that of the ones towards whom he has the obligation of rendering alimony with respect to the last six months;
d) The credits emerging from work contract or from its breach or termination belonging to the worker with respect to the last six months.
2. The six-month period referred to in paragraphs b), c) and d) of the previous paragraph shall start from debtor's death or from the payment request.

SUBSECTION III
Special privileges over movables

ARTICLE 672
(Legal costs and tax over gratuitous transfers of property rights on immovables and movables)

1. Credits concerning legal costs directly made in the common interest of creditors for the preservation, execution or liquidation of movable assets shall have a privilege over these assets.
2. Credits of state emerging from the tax over gratuitous transfers of property rights on immovables and movables shall also have a privilege over the transferred movable assets.

ARTICLE 673
(Privilege over land property's earnings)

The following credit rights shall enjoy a privilege over the earnings of the respective land property:

a) Credits for the supply of seeds, plants, and fertilizers, and of water or energy for irrigation or other farming purposes;
b) Credits for Court-related debts in relation to the current year on the date of the attachment or equivalent measure, and in relation to the previous year.

ARTICLE 674
(Preferential rights on income from town property)

Credits for Court-related debts in relation to the current year on the date of the attachment or equivalent measure, and in relation to the previous year, enjoy a preferential right on income from the respective town property.

ARTICLE 675
(Indemnification Credit)

Credits to victims of events involving civil liability have a preferential right over indemnities owed by the insurer for liabilities incurred by the offending party.

ARTICLE 676
(Credits to the author of intellectual property)

Credits to the author of intellectual property, based on a publishing contract, have a preferential right over existing copies of the work in the publisher's possession.

SUBSECTION IV
Preferential rights involving real estate

ARTICLE 677
(Court Costs)

Credits for Court costs made directly in the common interest of the creditors for the upkeep, foreclosure, or liquidation of real property, have a preferential right in relation to such assets.

ARTICLE 678
(Property tax and transfer taxes)

1. Credits relating to property taxes owed to the State or to local self-governing agencies, recorded for collection in the current year on the date of the attachment or equivalent measure and in the two previous years, have a preferential right in relation to the assets whose earnings are subject to such taxes.
2. Credits to the State for SISA (property transfer) taxes and for the tax on inheritances and gifts have a preferential right in relation to the assets transferred.

SUBSECTION V
Effects and extinction of preferential rights

ARTICLE 679
(Concurrent preferential rights)

1. Preferential credits are paid in the order indicated in the provisions set out below.
2. In the event of equally preferential claims, amounts will be apportioned between them proportionally to their respective amounts.

ARTICLE 680
(Preferential rights for Court costs)

Preferential rights for Court costs, whether on chattel or real property, take precedence not only in relation to other preferential rights, but also in relation to other guarantees, even prior ones, that encumber such assets, and are valid against third parties that may acquire them.

ARTICLE 681
(Order of other preferential rights on chattel)

1. Credits enjoying a preferential right on chattel are ranked in the following order:
a) Credits for taxes, with the State being paid first and local authorities only after that;
b) Credits for supply of goods or services intended for agricultural production;
c) Credits for Court costs;
d) Credits to the victim of an event that gives rise to civil liability;
e) Credits to the author of intellectual property;
f) Credits enjoying a general preferential right on chattel, in the order set out in Article 671.
2. The provisions of this Article are applicable even if the preferential right exists against successive owners of the thing.

ARTICLE 682
(Order of other preferential rights on real property)

1. Credits enjoying a preferential right on real property are ranked in the following order:
a) Credits of the State, for property taxes, for the SISA (property transfer) tax, and for the tax on inheritances and gifts;
b) Credits of local authorities, for property taxes.

ARTICLE 683
(General preferential rights and rights of third parties)

General preferential rights are not valid against third parties who are holders of rights that, falling upon the things covered by the preferential right, are enforceable against the judgment creditor.

ARTICLE 684
(Special preferential rights on chattel and rights of third parties)

Except as otherwise provided, in the event of conflicts between a special preferential right on chattel and a third-party right, the right that was acquired first prevails.

ARTICLE 685
(Preferential rights on real property and rights of third parties)

Preferential rights on real property are enforceable in relation to third parties that may acquire the building or a real right on it, and take preference over Court deposits of income, mortgages or rights of retention, even if such guarantees pre-date them.

ARTICLE 686
(Extinguishment)

Preferential rights are extinguished for the same reasons as the mortgage right is extinguished.

ARTICLE 687
(Cross-reference)

Articles 626 and 628 through 633 are applicable to preferential rights, with the necessary adaptations.

SECTION VII
Right of Retention

ARTICLE 688
(When it exists)

A debtor that holds a credit against his or her creditor enjoys the right of retention if, when obliged to deliver a certain thing, his or her/its credit arises from expenses incurred because of it or damages caused by it.

ARTICLE 689
(Special circumstances)

1. The following also enjoy the right of retention:
a) A freight company, in relation to the things transported, for the credit resulting from the transport;
b) An innkeeper, in relation to the things that guests have brought to the inn or adjacent premises, for the credit arising from the lodging;
c) An agent, in relation to the things handed over to him or her for performance of the power of attorney, for the credit arising from his or her activities;
d) A business manager, in relation to the things placed at his or her disposal for performing the management, for the credit arising therefrom;
e) A custodian or borrower, in relation to the things handed over to him or her as a result of the respective contracts, for the credits arising from them;
f) A beneficiary of a promise of transfer or establishment of an in rem right that has taken possession of the thing referred to in the promised contract, in relation to such thing, for the credit resulting from the other party's failure to perform, pursuant to Article 377.
2. When there is a succession of transports, but all the freight companies have undertaken mutual obligations, it is understood that the last one holds the items on its own behalf and on behalf of the others.

ARTICLE 690
(Exclusion of the right of retention)

There is no right of retention:
a) in relation to those who have obtained the thing to be delivered by illicit means, provided that at the time of acquisition, they were aware of such illicitness;
b) in relation to those who maliciously incurred the expenses from which their credit arises;
c) in relation to things that may not be the object of attachment;
d) when the other party provides a bond that is sufficient.

ARTICLE 691
(Undemandability and illiquidity of the credit)

1. The debtor enjoys the right of retention, even before his or her credit falls due, provided circumstances exist that give rise to loss of the benefit of the payment term.
2. The right of retention does not depend upon the liquidity of the respective holder's credit.

ARTICLE 692
(Retention of chattel)

When the right of retention applies to chattels, the respective holder enjoys the same rights and is subject to the same obligations as a pledge creditor, except as regards the replacement or reinforcement of the guarantee.

ARTICLE 693
(Retention of real property)

1. When the right of retention applies to real property, the respective holder may choose, before effecting delivery, to foreclose on it, under the same conditions as would a mortgage creditor, and be paid with a preferential right in relation to the debtor's other creditors.
2. The right of retention prevails in this case over a mortgage, even if the latter was recorded at an earlier date.
3. Until delivery of the thing, the applicable rights and obligations of the holder of the retention are those applicable to attachments, with the necessary adaptations.

ARTICLE 694
(Transfer)

The right of retention is not transferable without the transfer of the credit that it guarantees.

ARTICLE 695
(Extinguishment)

The right of retention is extinguished for the same reasons that the right to a mortgage ceases, and also upon delivery of the thing.

CHAPTER VII
Fulfilment and non-fulfilment of obligations

SECTION I
Fulfilment

SUBSECTION I
General provisions

ARTICLE 696
(General Principle)

1. The debtor fulfils the obligation when he or she renders the performance to which it is tied.
2. In fulfilling the obligation, as in exercising the corresponding right, the parties must act in good faith.

ARTICLE 697
(Rendering a consideration in full)

1. The consideration shall be rendered in full and not in parts, except as otherwise agreed or determined by law or by local custom.
2. The creditor is entitled, however, to demand a part of the consideration; demanding such part does not mean the debtor may not offer the full consideration.

ARTICLE 698
(Competence of debtor and creditor)

1. A debtor has to be competent, if the consideration constitutes an act of disposal of an asset; but a creditor who has received something from an incompetent debtor may oppose the request for annulment if the debtor has not incurred any loss through the consideration.
2. The creditor must, for his or her part, be competent to receive the consideration; but, if the latter comes into the power of the incompetent person's legal representative or his or her estate is augmented, the debtor may oppose the request for annulment of the consideration rendered and renewed fulfilment of the obligation, insofar as it has been received by the representative or through enrichment of the incompetent person.

ARTICLE 699
(Delivery of something the debtor has no right to dispose of)

1. A creditor who in good faith receives something the debtor has no right to convey has the right to challenge fulfilment, without prejudice to the right to be reimbursed for damages suffered.
2. A debtor who, in good or bad faith, provides something he or she has no right to dispose of may not challenge fulfilment, unless he or she offers something else instead.

ARTICLE 700
(Declaration of nullity or annulment of fulfilment and guarantees provided by third party)

If fulfilment is declared null and void or annulled for some reason attributable to the creditor, the guarantees provided by a third party are not re-established except if the third party was aware of the defect at the time he or she became aware of fulfilment of the obligation.

SUBSECTION II
Persons who may render consideration and persons to whom consideration may be rendered

ARTICLE 701
(Persons who may render performance)

1. Consideration may be rendered either by the debtor or by a third party, who may have an interest in the fulfilment of the obligation or not.
2. The creditor may not, however, be forced to accept consideration from a third party, when it has been expressly agreed that the consideration should be rendered by the debtor, or when the substitution adversely affects him or her.

ARTICLE 702
(Refusal of consideration by the creditor)

1. When the consideration can be rendered by a third party, the creditor that refuses it falls into default vis-à-vis the debtor.
2. It is, however, licit for the creditor to refuse it, provided the debtor is opposed to fulfilment and it cannot be sub-rogated to the third party pursuant to Article 527; the debtor's opposition is not an obstacle to the creditor validly accepting the consideration.

ARTICLE 703
(To whom performance must be rendered)

The consideration shall be rendered to the creditor or his or her representative.

ARTICLE 704
(Consideration rendered to a third party)

Consideration rendered to a third party does not extinguish the obligation, except:
a) If it was thus stipulated or consented to by the creditor;
b) If the creditor ratifies it;
c) If the one who received it had later acquired the credit;
d) If the creditor should benefit from the fulfilment and not have a justified interest in not considering it as having been rendered to himself or herself;
e) If the creditor is the heir of the one who received it and is liable for the obligations of the one he or she succeeds;
f) In the other cases where the law so determines.

ARTICLE 705
(Opposition to the recommendation made by the creditor)

The debtor is not obliged to render consideration to the creditor's voluntary representative nor to the person authorized by the latter to receive it, if there is no agreement in that respect.

SUBSECTION III
Location for the consideration

ARTICLE 706
(General principle)

1. In the absence of a stipulation or special provision in law, the consideration shall be rendered in the place where the debtor is domiciled.
2. If the debtor changes domicile after the obligation is constituted, the performance shall be rendered at the new domicile, except if the change entails a loss to the creditor, and in that case shall be rendered at the original place of domicile.

ARTICLE 707
(Delivery of a chattel)

1. If the consideration has as its object a particular movable asset, the obligation must be fulfilled at the place where the thing was located at the time the deal was closed.
2. The provision set out in the preceding paragraph is still applicable in the case of a generic thing that must be chosen from a given set of things or a thing that must be produced in a certain place.

ARTICLE 708
(Pecuniary obligations)

If the obligation has as its object a certain sum of money, the consideration shall be rendered where the creditor is domiciled at the time of fulfilment.

ARTICLE 709
(Change in the creditor's domicile)

If it has been stipulated, or is set out in law, that fulfilment must occur at the creditor's domicile, and the latter changes domicile after the constitution of the obligation, the consideration may be rendered at the debtor's place of domicile, except if the former undertakes to reimburse the latter for losses incurred due to the move.

ARTICLE 710
(Impossibility of consideration in the stipulated place)

When consideration is or becomes impossible at the place stipulated for fulfilment and there are no grounds for considering the obligation null and void or extinguished, the additional rules in Articles 706 to 708 are applicable.

SUBSECTION IV
Timeframe for the consideration

ARTICLE 711
(Determination of the timeframe)

1. In the absence of a special stipulation or a provision in law, the creditor has the right at all times to demand fulfilment of the obligation, just as the debtor may at all times exonerate him or her from it.
2. If, however, it becomes necessary to establish a timeframe, whether due to the very nature of the consideration, due to the circumstances that have determined it, or due to local custom, and the parties are unable to agree on setting it, its establishment is referred to the Courts.
3. If the establishment of the timeframe is left up to the creditor and he or she does not use the right granted him or her, it is the responsibility of the Court to set the timeframe, at the debtor's request.

ARTICLE 712
(Timeframe depending on debtor's possibilities or free will)

1. If it has been stipulated that the debtor will perform when possible, the consideration is only demandable when the latter is able to perform; if the debtor should die, the consideration is demandable from his or her heirs, irrespective of proof of such possibility, but without prejudice to the provisions of Article 1935.
2. When the timeframe is left up to the debtor's free will, the creditor only has the right to demand consideration from his or her heirs.

ARTICLE 713
(Beneficiary of the timeframe)

The timeframe is understood to be established in the debtor's favour when it cannot be shown that it was in the creditor's favour, or in favour of the debtor and the creditor jointly.

ARTICLE 714
(Loss of the benefit of the timeframe)

1. Once the timeframe has been established in the debtor's favour, the creditor may, nevertheless, demand immediate performance of the obligation if the debtor becomes insolvent, even if the insolvency has not been declared judicially, or if for some reason attributable to the debtor the guarantees for the credit are reduced or if the promised guarantees are not provided.
2. Instead of immediate fulfilment of the obligation, the creditor has the right to demand the replacement or reinforcement of the guarantees from the debtor, in the event the latter suffer reduction.

ARTICLE 715
(Debt that can be settled in installments)

If the obligation can be settled in two or more installments, the failure to perform one of them causes all of the installments to become due.

ARTICLE 716
(Loss of the benefit of the timeframe in relation to joint obligors and third parties)

The loss of the benefit of the timeframe does not extend to joint obligors of the debtor, nor to third parties that have constituted any guarantee in relation to the credit.

SUBSECTION V
Attributing fulfilment

ARTICLE 717
(Designation by the debtor)

1. If the debtor, in relation to various debts of the same type to the same creditor, renders consideration that does not completely extinguish all of them, it is left to his or her discretion to designate to which debts the consideration refers.
2. The debtor, however, may not make a designation contrary to the creditor's wishes for a debt that has not yet fallen due, if the timeframe has been established in the creditor's favour; and also, it is not licit for him or her to designate, contrary to the creditor's wishes, a debt in an amount greater than that of the consideration rendered, provided the creditor has the right to refuse partial consideration.

ARTICLE 718
(Additional rules)

1. If the debtor does not make the designation, fulfilment must be attributed to the debt that is past-due; among various past-due debts, the one that offers the least guarantee to the creditor; among various equally guaranteed debts, the one that is most onerous to the debtor; among various equally onerous debts, the one that fell due first; if several fell due simultaneously, on the one bearing the earliest date.
2. If it is not possible to apply the rules set out in the paragraph above, the consideration shall be deemed to have been done in relation to all the debts, distributed equally, even though with prejudice, in this case, to the provisions of Article 697.

ARTICLE 719
(Debts that entail interest, expenses and indemnification)

1. When, besides the capital, the debtor is obliged to pay expenses or interest, or to indemnify the creditor as a result of past-due payment, consideration that does not cover all that is owed is presumed to be rendered in relation to, successively, the expenses, the indemnification, the interest, and the principal.
2. Assignment to the principal can only be done in last place, except if the creditor agrees that it may come before.

SUBSECTION VI
Proof of fulfilment

ARTICLE 720
(Presumption of fulfilment)

1. If the creditor gives release on the principal without restrictions in relation to interest or other incidentals, the interest or incidentals are deemed to have been paid.
2. If interest or other periodic installments are owed and the creditor gives release without restrictions for one of these installments, the previous installments are deemed to have been satisfied.
3. The voluntary delivery by the creditor to the debtor of the original credit instrument is grounds for assuming release of the debtor and his or her co-debtors, whether joint-and-several or joint, as well as the guarantor and the main debtor, if the instrument is delivered to one of the latter.

ARTICLE 721
(Right to release)

1. One who fulfils the obligation has the right to demand release from the one to whom consideration was rendered, such release consisting of an authentic document or one that is authenticated or bears a notary’s certification, if the one fulfilling the obligation has a legitimate interest in this regard.
2. The one doing the fulfilment may refuse to render consideration until release is given, and may also demand release after fulfilment.

SUBSECTION VII
Right to return of the instrument or to mention of fulfilment

ARTICLE 722
(Return of the instrument. Mention of fulfilment)

1. Once the debt has been extinguished, the debtor has the right to demand the return of the instrument that created the obligation; if fulfilment is partial, or if the instrument grants the creditor other rights, or if the creditor has a legitimate interest in retaining it for another reason, the debtor may demand that the creditor include a notation in the instrument of the fulfilment rendered.
2. A third party that fulfils the obligation, having been sub-rogated with the creditor's rights, enjoys the same rights.
3. The provisions of the previous Article, paragraph 2, are applicable to the return of the instrument and the notation of fulfilment.

ARTICLE 723
(Impossibility of return or of notation)

If the creditor claims it is impossible for any reason to return the instrument or make a notation of the fulfilment on it, the debtor may demand release set out in an authentic document or one that is authenticated or bears a notary's certification, with the respective expenses being borne by the creditor.

SECTION II
Non-fulfilment

SUBSECTION I
Impossibility of fulfilment and delay not attributable to the debtor

ARTICLE 724
(Objective impossibility)

1. The obligation is extinguished when consideration becomes impossible through no fault of the debtor.
2. When the deal from which the obligation arises has been done subject to conditions or for future fulfilment, and consideration is possible on the date on which the deal is concluded but becomes impossible before the conditions materialize or before the future due date, the impossibility is considered to be supervening and does not affect the validity of the deal.

ARTICLE 725
(Subjective impossibility)

Impossibility relating to the person of the debtor likewise causes extinguishment of the obligation, if the debtor cannot be replaced by a third party for fulfilment of it.

ARTICLE 726
(Temporary impossibility)

1. If the impossibility is temporary, the debtor is not liable for the delay in fulfilment.
2. The impossibility is only considered temporary so long as, considering the purpose of the obligation, the creditor's interest is maintained.

ARTICLE 727
(Partial impossibility)

1. If the consideration becomes partially impossible, the debtor is exonerated through the provision of what is possible; in such cases, the consideration to which the other party is bound shall be reduced proportionately.
2. However, a creditor who justifiably has no interest in the partial fulfilment of the obligation may terminate the deal.

ARTICLE 728
(Representation "comodum")

If, by virtue of the fact that consideration has become impossible the debtor acquires some right to something, or against a third party, in substitution of the object of the consideration, the creditor may demand the provision of that thing, or replace the debtor as the holder of the right that the latter has acquired against a third party.

ARTICLE 729
(Bilateral agreements)

1. When in a bilateral agreement one of the considerations becomes impossible, the creditor is released from the counter-consideration and has the right, if the consideration has already occurred, to demand restitution subject to the terms prescribed for instances of unjust enrichment.
2. If consideration becomes impossible through some fault of the creditor, the latter is not released from the counter-consideration, but if the debtor benefits in some way from the exoneration, the value of the benefit shall be offset in the counter-consideration.

ARTICLE 730
(Risk)

1. In agreements that involve the transfer of title to a certain thing or that establish or transfer an in rem right over it, the perishment or deterioration of the thing due to a cause not attributable to the seller is borne by the buyer.
2. If, however, the thing continues in the possession of the seller as a result of a term established in his or her favour, the risk is only transferred when the term expires or upon delivery of the thing, without prejudice to the provisions of Article 741.
3. When the agreement is dependent upon a resolutive condition, the risk of perishment while the condition persists is borne by the buyer, if the thing has been delivered to him or her; when the condition is suspensive, the risk is borne by the seller while the condition persists.

ARTICLE 731
(Promise to remit)

When a thing is involved that, by mutual consent, the seller should remit to another place different from that of fulfilment, the transfer of the risk takes place upon delivery to the freight company or expediter of the thing, or to the person indicated to perform the remittance.

SUBSECTION II
Non-fulfilment and delay attributable to the debtor

Division I
General Principles

ARTICLE 732
(Liability of the debtor)

A debtor that negligently fails to fulfil an obligation becomes liable for the damages caused to the creditor.

ARTICLE 733
(Presumption of guilt and judgment thereof)

1. It is incumbent on the debtor to prove that he or she is not to blame for the non-fulfilment or faulty fulfilment of the obligation.
2. The question of guilt is judged pursuant to the provisions applicable to civil liability.

ARTICLE 734
(Acts of legal representatives or assistants)

1. The debtor is liable to the creditor for the acts of his or her legal representatives or the people he or she uses to fulfil the obligation, as if such acts were performed by the debtor himself or herself.
2. The liability may, by mutual consent, be excluded or limited, by means of prior agreement of the interested parties, provided the exclusion or limitation does not encompass acts that represent a violation of the duties imposed by the rules of law and order.

DIVISION II
Impossibility of fulfilment

ARTICLE 735
(Negligent impossibility)

1. If consideration becomes impossible through some fault of the debtor, the latter is liable as if he or she failed through negligence to fulfil the obligation.
2. If the obligation arises from a bilateral agreement, the creditor, irrespective of the right to indemnification, may unilaterally terminate the agreement and, if consideration has already occurred, demand restitution of it in full.

ARTICLE 736
(Partial impossibility)

1. If consideration becomes partially impossible, the creditor may choose between unilaterally terminating the transaction or demanding provision of what is possible, in this case reducing the consideration, if owed; in either case, the creditor retains the right to indemnification.
2. The creditor may not, however, unilaterally terminate the transaction if the partial non-fulfilment has little importance in serving his or her interests.

ARTICLE 737
(Representation “comodum”)

1. The provisions of Article 728 also apply to cases of impossibility attributable to the debtor.
2. If the creditor asserts the right granted in the foregoing paragraph, the amount of the indemnification to which he or she is entitled shall be reduced accordingly.

DIVISION III
Default by the debtor

ARTICLE 738
(General principles)

1. The default in itself places the debtor under obligation to repair the damage suffered by the creditor.
2. The debtor is deemed to be officially in default when, through some fault of his or her own, the consideration, although possible, was not rendered at the proper time.

ARTICLE 739
(Time at which default is established)

1. The debtor is only deemed to be officially in default after being judicially or extra-judicially notified to fulfil the obligations.
2. Independent of notification, default by the debtor exists:
a) If the obligation has a specific deadline;
b) If the obligation arises from an illicit act or fact;
c) If the debtor himself or herself blocks the notification, in which case notification is considered to have occurred on the date on which the notification would normally have taken place.
3. If the credit is illiquid, no default exists until it becomes liquid, except if the lack of liquidity is attributable to the debtor; in the case, however, of liability for an illicit act or fact, or risk, the debtor is deemed in default as of the notification, unless default already exists at that point in time subject to the terms of the first part of this paragraph.

ARTICLE 740
(Pecuniary obligations)

1. In pecuniary obligations, the indemnification corresponds to interest as of the date on which default is established.
2. The interest owed is the legal rate of interest, unless before the default a higher rate of interest was owed, or if the parties have stipulated an interest rate on past-due amounts that is different from the legal rate.
3. The creditor may, however, prove that the default has caused damage greater than can be covered by the interest referred to in the previous paragraph and demand the corresponding additional indemnification, when it is a case of liability for an illicit act or fact or for risk.

ARTICLE 741
(Risk)

1. By virtue of being in default, the debtor becomes responsible for the damages the creditor incurs as a result of the loss or deterioration of that which should have been delivered, even if such facts are not attributable to him or her.
2. The debtor, however, is reserved the right to prove that the creditor would have suffered equal damages if the obligation had been fulfilled in a timely manner.

ARTICLE 742
(Loss of interest by the creditor or refusal of fulfilment)

1. If the creditor, as a consequence of the default, loses interest in the consideration or if consideration is not rendered within a timeframe reasonably set by the creditor, the obligation is considered not to have been fulfilled, for all intents and purposes.
2. The loss of interest in the consideration is objectively judged.

DIVISION IV
Creditor's rights established in the contract

ARTICLE 743
(Creditor's waiver of rights)

Any clause under which the creditor waives in advance any rights to which he or she is entitled under previous Divisions, for cases of non-fulfilment or default by the debtor, is null and void, except for the provision set out in Article 734, paragraph 2.

ARTICLE 744
(Penalty clause)

1. The parties may, however, by mutual agreement set the amount of the damages that may be demanded; this is called a penalty clause.
2. The penalty clause is subject to the formalities required for the principal obligation, and it is null and void if the obligation is null and void.

ARTICLE 745
(Functioning of the penalty clause)

1. The creditor may not demand cumulatively, based on the contract, the coercive fulfilment of the obligation and the payment of the penalty clause, except if the latter has been established for delays in consideration; any stipulation to the contrary is null and void.
2. The establishment of the penalty clause bars the creditor from demanding indemnification for additional damages except as otherwise agreed by the parties.
3. The creditor may not under any circumstances demand an indemnification that exceeds the value of the damage resulting from the non-fulfilment of the main obligation.

ARTICLE 746
(Equitable reduction of the penalty clause)

1. The penalty clause may be reduced by the Courts, based on equity, when it is manifestly excessive, even if due to a supervening cause; any stipulation to the contrary is null and void.
2. Reduction is permitted under the same circumstances, if the obligation has been partially fulfilled.

SUBSECTION III
Default by the creditor

ARTICLE 747
(Requirements)

The creditor is in default when, without a *justa causa*, he or she fails to accept consideration that is lawfully offered or fails to do what is necessary for the fulfilment of the obligation.

ARTICLE 748
(Responsibility of the debtor)

1. As of the default, the debtor is responsible only for the object of the consideration, as regards his or her malicious intent; as regards the proceeds from the thing, he or she is only liable for what has been received.
2. During the default period, the debt ceases to accumulate interest, whether at the legal interest rate or at an agreed rate.

ARTICLE 749
(Risk)

1. The default causes the risk of supervening impossibility of consideration, resulting from causes not attributable to malicious intent on the part of the debtor, to rest upon the creditor.
2. When it is a bilateral agreement, the creditor who, being in default, loses his or her credit wholly or in part due to a supervening impossibility of consideration is not exonerated from the counter-consideration; but if the debtor derives some benefit from the extinguishment of his or her obligation, the amount of the benefit must be deducted from the counter-consideration.

ARTICLE 750
(Indemnification)

The creditor in default shall indemnify the debtor for the major expenses that the latter may be obliged to incur through the fruitless offering of the consideration and the storage and safekeeping of the respective object.

SECTION III
Coercive rendering of the consideration

SUBSECTION I
Action for enforcement and collection

ARTICLE 751
(General principle)

If the obligation is not voluntarily fulfilled, the creditor has the right to judicially demand fulfilment and enforce collection against the debtor's estate, pursuant to the terms of this civil code and the laws of procedure.

ARTICLE 752
(Enforced collection against third-party assets)

The right to enforce collection may apply to third-party assets when they are linked to the credit guarantee, or when they are the object of an act performed to the detriment of the creditor, which the latter has challenged on valid grounds.

ARTICLE 753
(Disposal or encumbrance of pledged assets)

Without prejudice to the rules governing registration, acts involving the disposal or encumbrance of pledged assets are null and void in relation to the judgment creditor.

ARTICLE 754
(Pledging of credits)

If some credit of the debtor is pledged, its extinguishment for a reason depending upon the will of the judgment debtor or of the judgment debtor's debtor, which is verified after the pledge has been constituted, is likewise null and void in relation to the judgment creditor.

ARTICLE 755
(Release or assignment of income or rents not yet due)

The release or assignment, before the pledge, of income or rents not yet due is unenforceable against the judgment creditor, insofar as such income or rents refer to periods of time not yet elapsed on the date of the pledge.

ARTICLE 756
(Preferential right resulting from the pledge)

1. Except in those cases especially provided for in law, the judgment creditor acquires through the pledge the preferential right to be paid in advance of any other creditor that has no prior real guarantee.
2. If the judgment debtor's assets have previously suffered attachment, the prior standing of the pledge refers to the date of the attachment.

ARTICLE 757
(Loss, expropriation or deterioration of the thing pledged)

If the thing pledged is lost, expropriated, or loses value and, if in any one of the cases, there is margin for indemnification of a third party, the judgment creditor retains over the respective credits or over the amounts paid as indemnification, the same rights as were held over the thing.

ARTICLE 758
(Forced sale)

1. A forced sale transfers to the acquirer the rights the judgment debtor had held on the thing sold.
2. The assets are transferred free and clear of the rights of guarantee that encumbered them, as well as other in rem rights that were not recorded prior to any attachment, pledge or guarantee, with the exception of those that, established at an earlier date, produce effects in relation to third parties, irrespective of registration.
3. The third-party rights that lapse pursuant to the foregoing paragraph are transferred to the proceeds of the sale of the respective assets.

ARTICLE 759
(Guarantee in the event of enforced collection of something belonging to another)

1. The acquirer, in the event of enforced collection on something belonging to another, may demand that the price thereof be returned by those to whom it was attributed, and that the damage be remedied by the creditors and by the judgment debtor if they have acted culpably; the provisions of Article 828 are applicable to the restitution of the price.
2. If the third party has asserted his or her right at the time of the sale, or before it, and the acquirer is aware of the claim, it is not licit for him or her/it to request reparation of damages, except if the creditors or the debtor have taken responsibility for the indemnification.
3. Rather than demand restitution of the price from the creditors, the acquirer may exercise those creditors' rights against the debtor by sub-rogation.

ARTICLE 760
(Adjudication and redemption)

The provisions of the preceding articles regarding sale are applicable, with the necessary adaptations, to adjudication and redemption.

SUBSECTION II
Specific enforcement

ARTICLE 761
(Delivery of a particular thing)

If the consideration consists of the delivery of a particular thing, the creditor may opt to petition, in the enforcement proceeding, for the delivery to be made judicially.

ARTICLE 762
(Consideration of a fungible thing)

The creditor of a fungible thing may opt to petition, in the enforcement proceeding, for the thing to be delivered by another person at the debtor's expense.

ARTICLE 763
(Refraining from consideration of a thing)

1. If the debtor is obliged to refrain from something and then does it, the creditor has the right to demand that the work, if the work has been done, be demolished at the expense of the one who undertook not to do it.
2. The right granted in the preceding paragraph ceases, giving way to indemnification only, in general terms, if the loss to the debtor with the demolition is substantially greater than the loss suffered by the creditor.

ARTICLE 764
(Mandatory pecuniary sanction)

1. In obligations involving the consideration of a fungible thing, or refraining therefrom, except those requiring scientific or artistic qualities on the part of the obligor, the Court must, upon petition of the creditor, sentence the debtor to the payment of a pecuniary amount for each day of delay in fulfilment or for each infraction, whichever is more appropriate to the circumstances of the case.
2. The mandatory pecuniary sanction provided for in the paragraph above shall be established based on the criteria of reasonability, without prejudice to the indemnification applicable.
3. The sum of the mandatory pecuniary sanction is intended to be paid, in equal parts, to the creditor and to the State.
4. When any payment in legal tender is stipulated or judicially ordered, interest is automatically owed at the rate of 5% per annum starting on the date on which the sentence becomes final and unappealable, which will be added to the late-payment fine, if also owed, or to the indemnification applicable.

ARTICLE 765
(Promised contract)

1. If an individual has undertaken to enter into a certain contract and does not fulfil the commitment, the other party may, in the absence of an agreement to the contrary, obtain a sentence that produces the effects of a declaration of intent by the delinquent party, whenever the nature of the obligation undertaken does not bar it.
2. An agreement to the contrary is deemed to exist if there is a down payment or if a penalty has been set in the case of non-fulfilment of the commitment.
3. The right to specific enforcement may not be set aside by the parties for the commitments referred to in Article 345, paragraph 3; at the delinquent party's request, however, a sentence that produces the effects of his or her declaration of intent may order modification of the contract pursuant to Article 372, even if the alteration of the circumstances occurs after the default.
4. In the case of a commitment in relation to the execution of a contract for valuable consideration involving the transfer of, or establishment of, an in rem right on a building or an independent unit thereof, in which the acquirer is accorded, pursuant to Article 655, the option of expurgating the mortgage to which it is subject, he or she may, if the extinguishment of such guarantee does not precede the aforementioned transfer or establishment or coincide with it, petition, for purposes of expurgation, for the sentence referred to in paragraph 1 above also to condemn the delinquent party to hand over the sum of the guaranteed debt, or the amount of it corresponding to the unit of the building or the right comprising the object of the contract and the respective interest, both due and that will fall due, until full payment is made.
5. In the case of a contract under which it is licit for the obligor to invoke the exception of non-fulfilment, the action is ungrounded if the plaintiff does not make a deposit with the Court in the amount of his or her consideration within the timeframe established by the Court.

SECTION IV
Assignment of assets to creditors

ARTICLE 766
(Concept, Form)

1. The assignment of assets, or some of them, to creditors occurs when the latter are charged by the debtor with liquidating his or her/its estate, or part of it, and sharing among themselves the respective proceeds for the satisfaction of their credits.
2. The assignment must be done in writing and it also is subject to the form required for the validity of transfers of assets encompassed within it.
3. The assignment shall be registered whenever it covers assets subject to registration.

ARTICLE 767
(Foreclosure against assigned assets)

The assignment does not bar the assigned assets from being foreclosed on by the creditors that did not participate in it, until such time as they are disposed of; assignees and creditors constituted after the assignment do not enjoy the same rights.

ARTICLE 768
(Powers of the assignees and of the debtor)

1. While the assignment lasts, the authority to manage and dispose of the respective assets belongs exclusively to the assignees.
2. The debtor retains, however, the right to oversee the creditors' management, and has the right to a rendering of accounts at the end of the liquidation or, if the assignment lasts for more than one year, at the end of each year.

ARTICLE 769
(Exoneration of the debtor)

The debtor is only granted release in relation to the creditors as of the receipt of the part to which they are entitled of the proceeds of the liquidation, and to the extent of what they have received.

ARTICLE 770
(Withdrawal from the assignment)

1. It is permitted for the debtor to withdraw at any time from the assignment, fulfilling the obligations to which he or she is bound in relation to the assignees.
2. The withdrawal is not effective retroactively.

CHAPTER VIII
Reasons for extinguishment of the obligation other than fulfilment

SECTION I
Dation in fulfilment

ARTICLE 771
(When it is allowed)

The provision of something other than what is owed, even when of greater value, only exonerates the debtor if the creditor gives his or her consent.

ARTICLE 772
(Defects affecting the thing or the right)

The creditor to which the dation in fulfilment is given enjoys a guarantee against defects in the thing or the right transferred, subject to the terms prescribed for the purchase and sale; but he or she may opt in favour of the original consideration and reparation of the damage suffered.

ARTICLE 773
(Nullity or annullability of the dation)

If the dation is declared null and void or annulled through some fault of the creditor, the guarantees provided by a third party are not re-established except if the third party was aware of the defect at the time he or she became aware of the dation.

ARTICLE 774
("Pro solvendo" dation)

1. If the debtor renders consideration that is different from what is owed, in order for the creditor to more easily obtain satisfaction for his or her credit by realizing the value thereof, the credit is only extinguished when it is satisfied, and to the respective extent.
2. If the dation has as its object the assignment of a credit or the assumption of a debt, it is presumed to have been done as set out in the paragraph above.

SECTION II
Deposit in Court

ARTICLE 775
(When it is applicable)

1. A debtor may free himself or herself from the obligation by means of a deposit of the thing owed, in the following cases:
a) When, through no fault of his or her own, it is not possible to render the consideration or do it safely for any reason relating to the person of the creditor;
b) When the creditor is in default.
2. The deposit in Court is optional.

ARTICLE 776
(Court deposit by a third party)

The Court deposit may be made at the request of a third party for which it is licit to render the consideration.

ARTICLE 777
(Dependence upon another consideration)

If the debtor has the option of not fulfilling the obligation in the absence of consideration by the creditor, it is licit for him or her to demand that the thing consigned not be delivered to the creditor until the latter has rendered such consideration.

ARTICLE 778
(Delivery of the thing consigned)

Once the consignment has been done, the consigner is obliged to deliver to the creditor the thing consigned, and the creditor has the right to demand its delivery

ARTICLE 779
(Revocation of the consignment)

1. The debtor may revoke the consignment, by means of a declaration made in the case files, and request restitution of the thing consigned.
2. The right of revocation is extinguished if the creditor, by means of a declaration made in the case files, accepts the consignment or if the latter is considered valid by a final and unappealable Court decision.

ARTICLE 780
(Extinguishment of the obligation)

The consignment accepted by the creditor or declared valid by a Court decision releases the debtor as if he or she had rendered the consideration to the creditor on the date of the deposit.

SECTION III
Offsetting

ARTICLE 781
(Requirements)

1. When two individuals are, reciprocally, creditor and debtor, either one of them may be released from his or her obligation by means of offsetting against the obligation of his or her creditor, provided the following requirements are met:
a) The credit must be judicially enforceable and there must not exist against it any peremptory or dilatory exception in substantive law;
b) The two obligations must have as their object fungible things of the same type and nature.
2. If the two debts are not of equal value, the corresponding part may be offset.
3. The illiquidity of the debt does not bar offsetting.

ARTICLE 782
(How it takes effect)

1. The offsetting takes effect by means of a declaration from one of the parties to the other.
2. The declaration is invalid if made subject to condition or is meant to take effect at a future time.

ARTICLE 783
(Voluntary grace period)

A creditor that has voluntarily granted a grace period to the debtor is barred from any offsetting against his or her/its debt until the grace period has expired.

ARTICLE 784
(Lapsed credits)

A lapsed credit is not a bar to offsetting if the credit had not yet lapsed on the date on which the two credits became eligible for offsetting.

ARTICLE 785
(Reciprocity of credits)

1. The offsetting may only cover the declarant's debt, and not that of a third party, even if the declarant can render consideration on behalf of the latter, except if the declarant is at risk of losing what belongs to him or her as a consequence of foreclosure due to a third-party debt.
2. The declarant may only use his or her own credits for the offsetting, and not credits belonging to others, even if the respective holder of the credits gives his or her consent; and only his or her credits against his or her creditor may be used for this purpose.

ARTICLE 786
(Different places of fulfilment)

1. The simple fact of having to be fulfilled in different places does not mean that any two obligations may not be offset, unless there is a stipulation to the contrary.
2. The declarant is, however, obliged to repair the damages suffered by the other party as a consequence of his or her not having received his or her credit, or the non-fulfilment of the obligation in the place specified.

ARTICLE 787
(Exclusion of offsetting)

1. The following may not be extinguished by offsetting:
a) Credits arising from illicit, fraudulent events;
b) Unpledgeable credits, except if both are of the same type;
c) Credits of the State or of other public entities, except when the law so authorizes.
2. Offsetting is also not permitted if there is harm to the rights of a third party, constituted before the credits became eligible for offsetting, or if the debtor has waived it.

ARTICLE 788
(Retroactivity)

Once the declaration of offsetting has been made, the credits are considered to have been extinguished as of the time when they became eligible for offsetting.

ARTICLE 789
(Plurality of credits)

1. If there are various credits, on one side or the other, that are eligible for offsetting, the choice of which ones to extinguish is up to the declarant.
2. If a choice is not made, the provisions of Articles 718 and 719 apply.

ARTICLE 790
(Nullity or annullability of offsetting)

Should the offsetting be declared null and void or annulled, the respective obligations continue to exist; but, if the nullity or annullability is attributable to one of the parties, the guarantees provided on that party's behalf by a third party are not re-established except if the third party was aware of the defect at the time when the declaration of offsetting was made.

SECTION IV
Novation

ARTICLE 791
(Objective novation)

Objective novation occurs when the debtor contracts a new obligation vis-à-vis the creditor that replaces the former obligation.

ARTICLE 792
(Subjective novation)

Novation due to replacement of the creditor occurs when a new creditor takes the place of the old one, with the debtor being bound to him or her by a new obligation; and novation due to replacement of the debtor occurs when a new debtor, contracting a new obligation, replaces the old one, who is exonerated by the creditor.

ARTICLE 793
(Declaration of intent)

The wish to contract a new obligation in replacement of the old one must be expressly manifested.

ARTICLE 794
(Invalidity of the novation)

1. If the first obligation was extinguished when the second one was contracted, or if it should be declared null and void or annulled, the novation becomes invalid.
2. If the new obligation is declared null and void or is annulled, the original obligation continues in effect; but if the nullity or annulment is attributable to the creditor, the guarantees provided by a third party are not re-established except if the third party, when he or she became aware of the novation, was aware of the defect in the new obligation.

ARTICLE 795
(Guarantees)

1. If the old obligation is extinguished by novation, in the absence of an express stipulation to the contrary, the guarantees that ensured its fulfilment are also extinguished, even when they existed as a result of the law.
2. When the guarantee involves a third party, the express stipulation must also be provided by the third party.

ARTICLE 796
(Means of defence)

The new credit is not subject to the means of defence employable against the old obligation, barring a stipulation to the contrary.

SECTION V
Cross-reference

ARTICLE 797
(Contractual nature of remission)

1. The creditor may remit the debt by means of an agreement with the debtor.
2. When it has a character of forbearance, remission through an inter-vivos transaction is deemed to be a gift, pursuant to Articles 874 and following.

ARTICLE 798
(Joint obligations)

1. Remission granted to a joint debtor releases the others only to the extent of the exonerated debtor's part.
2. If the creditor in this case reserves his or her rights, in full, against the other debtors, the latter also retain, also in full, the right of recourse against the exonerated debtor.
3. The remission granted by one of the joint creditors exonerates the debtor in relation to the other creditors, but only as regards the remitting creditor's part.

ARTICLE 799
(Indivisible obligations)

1. The provisions of Article 470 apply to a remission granted to one of the debtors by the creditor of an indivisible obligation.
2. If the remission is granted by one of the creditors to a debtor, the debtor is not exonerated in relation to the other creditors, but they may not demand consideration from the debtor without handing over to him or her the value of that co-creditor's part.

ARTICLE 800
(Validity in relation to third parties)

1. Remission granted to the debtor benefits third parties.
2. Remission granted to one of the guarantors benefits the others as regards the exonerated guarantor's part, but if the others consent to the remission they are liable for the whole of the debt, unless there is a declaration to the contrary.
3. If the remission is declared null and void or annulled for a reason attributable to the creditor, the guarantees provided by a third party are not re-established except if the third party was aware of the defect at the time he or she became aware of the remission.

ARTICLE 801
(Waiver of guarantees)

The waiver of guarantees on the obligation shall not be deemed a remission of the debt.

SECTION VI
Confusion of rights

ARTICLE 802
(Concept)

When the qualities of creditor and debtor of the same obligation are united in the same person, the credit and the debit are extinguished.

ARTICLE 803
(Joint obligations)

1. The union in the same person of the qualities of joint debtor and creditor exonerates the other obligors, but only to the extent of that debtor's part.
2. The union in the same person of the qualities of joint creditor and debtor exonerates the latter to the extent of the former's part.

ARTICLE 804
(Indivisible obligations)

1. If in an indivisible obligation in which there are various debtors and one is at the same time creditor and debtor, the provisions of Article 470 apply.
2. If there are various creditors and one is at the same time creditor and debtor, the provisions of Article 799, paragraph 2, shall apply.

ARTICLE 805
(Validity in relation to third parties)

1. Confusion does not jeopardize the rights of third parties.
2. If third-party rights of usufruct or an attachment on the credit exist, this continues, despite the confusion, insofar as the interests of the usufructuary or the creditor of a secured credit require it.
3. If a single person is both debtor and guarantor, the guarantee is extinguished, except if the creditor has a legitimate interest in the guarantee continuing to exist.
4. If a single person is both creditor and owner of the mortgaged or attached thing, nothing bars the mortgage or the attachment from continuing, if the creditor's interest is thus served and to the extent that such interest is justified.

ARTICLE 806
(Separate estates)

Confusion is not deemed to exist if the credit and the debt belong to separate estates.

ARTICLE 807
(Cessation of the confusion)

1. If the confusion is undone, the obligation and its ancillary claims are re-established, even in relation to third parties, when the event that destroys it occurs before the confusion itself.
2. When cessation of the confusion is attributable to the creditor, the guarantees provided by a third party are not re-established except if the third party was aware of the defect at the time he or she became aware of the confusion.

TITLE II
ON CONTRACTS IN PARTICULAR

CHAPTER I
Purchase and sale

SECTION I
General provisions

ARTICLE 808
(Concept)

Purchase and sale is a type of contract under which ownership of a thing or another right is transferred, in return for consideration.

ARTICLE 809
(Form)

A purchase and sale contract for real property is only valid if entered into by means of a public deed.

ARTICLE 810
(Sale of a thing or right under litigation)

1. Those whom the law does not permit to receive the assignment of credits or rights under litigation, as set out in the respective chapter, may not be buyers of a thing or right under litigation, either directly or through a middleman.
2. A sale made in violation of the provisions of the paragraph above, besides being null and void, subjects the buyer, in general terms, to the obligation of repairing the damages caused.
3. Nullity may not be invoked by the buyer.

ARTICLE 811
(Sale to children or grandchildren)

1. Parents and grandparents may not sell to their children or grandchildren if the other children or grandchildren do not consent to the sale; the consent of descendants, when it cannot be provided or is refused, may be supplied judicially.
2. A sale made in violation of the provisions of the paragraph above is annullable; the annulment may be requested by the children or grandchildren who did not give their consent, within a timeframe of one year of knowledge of execution of the contract or of knowledge of incapacity, if they are incapacitated persons.
3. The interdiction does not cover dation in fulfilment done by the parent or grandparent.

ARTICLE 812
(Contractual expenses)

In the absence of an agreement to the contrary, the contractual and ancillary expenses are borne by the buyer.

SECTION II
Effects of purchase and sale

ARTICLE 813
(Essential effects)

Purchase and sale have as essential effects:
a) Transfer of ownership of the thing or title to the right;
b) The obligation to deliver the thing;
c) The obligation to pay the price.

ARTICLE 814
(Future assets, pending fruits and component or integral parts)

1. In the sale of future assets, pending fruits, or component or integral parts of a thing, the seller is obliged to exercise due diligence so that the buyer acquires the assets sold, based on what was stipulated or results from the circumstances of the contract.
2. If the parties consider the contract to be a risk contract, the price is owed even if the transfer of the assets does not actually occur.

ARTICLE 815
(Assets having uncertain existence or title)

When assets are sold whose existence or title are uncertain and the agreement mentions such uncertainty, the price is owed, even if the goods do not exist or do not belong to the seller, except if the parties refuse to consider the contract a risk contract.

ARTICLE 816
(Delivery of the thing)

1. The thing must be delivered in the state it was in at the time of the sale.
2. The obligation of delivery covers, save a stipulation to the contrary, the integral parts, the pending fruits, and the documents relating to the thing or right.
3. If the documents contain other matters of interest to the seller, the latter is obliged to deliver a certified copy of the part relating to the thing or right comprising the object of the sale, or an equally valid photocopy.

ARTICLE 817
(Determination of the price)

1. If the price is not set by a public entity, and the parties do not set it nor agree on how it is to be determined, the contractual price is deemed to be that which the seller would normally use on the date the contract is concluded or, if there is none, the market or stock exchange price at the time of the contract and in the place where the buyer owes fulfilment; if these rules are inadequate, the price is determined by the Courts, using the principles of equity.
2. When the parties have agreed on a fair price, the provisions of the preceding paragraph are applicable.

ARTICLE 818
(Reduction in price)

1. If the sale is limited to part of the object, pursuant to Article 283 or based on other legal precepts, the price relating to the valid part of the contract is the one that figures therein, if it has been listed as a part of the overall price.
2. If it has not been listed, the reduction is made by means of an appraisal.

ARTICLE 819
(Time and place for payment of the price)

1. The price must be paid at the time and place of delivery of the thing sold.
2. However, if by stipulation of the parties or by force of local custom the price does not have to be paid at the time of delivery, the payment shall be made at the place where the creditor is domiciled at the time of fulfilment.

ARTICLE 820
(Failure to pay the price)

Once ownership of the thing or the right to it has been transferred, and once delivery has been made, the seller may not, unless otherwise agreed, unilaterally terminate the contract for failure to pay the price.

SECTION III
Sale of things subject to counting, weighing or measurement

ARTICLE 821
(Specific things. Price set per unit)

For the sale of specific things, with the price set at a certain amount per unit, the price is owed proportionally to the actual number, weight or measurement of the things sold, despite the contract declaring a different amount.

ARTICLE 822
(Specific things. Price not set per unit)

1. If in the sale of specific things, the price is not set at a certain amount per unit, the buyer owes the declared price, even if in the contract a number, weight, or measurement of the things sold is indicated and the indication does not correspond to reality.
2. If, however, in the sale of specific things, the actual quantity differs from that declared by more than one twentieth, the price will be reduced or increased proportionally.

ARTICLE 823
(Offsetting of shortfalls and excesses)

When a number of specific and homogeneous things are sold for a single price, with an indication of weight or measurement for each of them, and the declared amount is less than the actual amount for some and more than the actual amount for others, the shortfalls and excesses shall be offset up to the limit of their occurrence.

ARTICLE 824
(Lapsing of the right to a difference in price)

1. The right to receive a difference in price lapses within six months or one year after delivery of the thing, depending upon whether it is a chattel or real property; but if the difference only becomes demandable at some time after delivery, the timeframe shall be counted as of that point in time.
2. For the sale of things that need to be transported from one place to another, the timeframe counted from the date of delivery only begins to elapse on the day on which the buyer receives them.

ARTICLE 825
(Termination of the contract)

1. If the price owed based on applying Article 821 or Article 822 , paragraph 2, exceeds a price proportional to the amount declared by more than one twentieth, and the seller demands that difference, the buyer has the right to terminate the contract, unless he or she has acted fraudulently.
2. The right to terminate lapses in three months as of the date on which the seller demands payment of the excess, in writing.

SECTION IV
Sale of assets belonging to another

ARTICLE 826
(Nullity of the sale)

The sale of assets belonging to another is null and void whenever the seller lacks legitimacy to perform the sale, but the seller may not enforce nullification to a good-faith buyer, nor may a fraudulent buyer enforce nullification to a good-faith seller.

ARTICLE 827
(Assets belonging to another as future assets)

The sale of assets belonging to another, however, is subject to the same regime as the sale of future assets, if the parties consider it in this light.

ARTICLE 828
(Restitution of the price)

1. If the sale of assets belonging to another is null and void, the buyer who has acted in good faith has the right to full restitution of the price, even if the assets have been lost, or have deteriorated or diminished in value for any other reason.
2. But, if the buyer has taken advantage of the loss or reduction in value of the assets, the advantage will be deducted from the amount of the price and of the indemnification that the seller has to pay him or her.

ARTICLE 829
(Validation of the contract)

As soon as the seller in some way acquires ownership of the thing or right sold, the contract becomes valid and said ownership or right is transferred to the buyer.

ARTICLE 830
(Circumstance in which the contract is not validated)

1. The contract is not validated, however, under the following circumstances:
a) Judicial plea to declare the contract null and void, formulated by one of the contracting parties against the other;
b) Restitution of the price or payment of the indemnification, wholly or in part, with the acceptance of the creditor;
c) A transaction between the contracting parties in which the nullity of the contract is acknowledged;
d) A written declaration made by one party to the other stating that it does not oppose the contract being declared null and void.
2. The provisions of subparagraphs (a) and (d) of the preceding paragraph do not adversely affect the provisions of the second part of Article 826.

ARTICLE 831
(Obligation to validate)

1. In the case of a good-faith buyer, the seller is obliged to remedy the nullity of the sale, acquiring ownership of the thing or right sold.
2. When such an obligation exists, the buyer may subordinate to it, within the timeframe set by the Courts, the effect provided for in subparagraph (a), paragraph 1 of the previous Article.

ARTICLE 832
(Indemnification in the case of fraud)

If one of the contracting parties has acted in good faith and the other fraudulently, the former has the right to be indemnified, in general terms, for all damages that would not have been suffered if the contract had been valid from the beginning, or if it had not been entered into, depending upon whether or not the nullity is remedied.

ARTICLE 833
(Indemnification if there is neither fraud nor guilt)

The seller is obliged to indemnify the good-faith buyer, even if he or she has acted without fraud or guilt; but in this case, the indemnity encompasses only incidental damages not resulting from unnecessary expenses.

ARTICLE 834
(Indemnification due to non-validation of the sale)

1. If the seller is responsible for non-fulfilment of the obligation to remedy the nullity of the sale or for the default in its consideration, the respective indemnification is added to that regulated in the previous Articles, except insofar as the damage is mutual.
2. But, under the circumstances provided for in Article 832, the buyer shall choose between indemnification for loss of earnings due to execution of the voided contract and loss of earnings due to the lack of, or delay in, obtaining the validation.

ARTICLE 835
(Guarantee of payment for improvements)

The seller is a joint guarantor of the payment for improvements that must be reimbursed by the owner of the thing to the good-faith buyer.

ARTICLE 836
(Partial nullity of the contract)

If the assets belong only partially to another and the rest of the contract is valid based on application of Article 283, the preceding provisions shall be obeyed as regards the null and void part and the stipulated price shall be reduced proportionally.

ARTICLE 837
(Additional provisions)

1. The provisions of Article 828, paragraph 1, of Article 831, Article 833, paragraph 1, of Article 834, and Article 835 yield to an agreement to the contrary, except if the contracting party whom the agreement favours has acted fraudulently and the other party in good faith.
2. The contractual declaration that the seller does not guarantee his or her legitimacy or is not liable for dispossession of rights involves the annulment of all the legal provisions to which the previous paragraph refers, with the exception of those set out in Article 828.
3. The clauses that annul the additional provisions to which paragraph 1 above refers are valid, despite the nullity of the purchase and sale contract where they are inserted, provided the nullity is due to the illegitimacy of the seller, pursuant to the terms of this section.

ARTICLE 838
(Scope of this section)

The rules set out in this section apply only to the sale of a thing belonging to another as if it were one's own.

SECTION V
Sale of encumbered assets

ARTICLE 839
(Annullability due to error or fraud)

If the right transferred is subject to any encumbrances or limitations that exceed the normal limits inherent to rights in the same category, the contract is annullable due to error or fraud, provided the legal requirements for annullability are met.

ARTICLE 840
(Rehabilitation of the contract)

1. Once the encumbrances or limitations on the right have disappeared by any means, the annullability of the contract is remedied.
2. The annullability persists, however, if the existence of the encumbrances or limitations has already caused damages to the buyer, or if the latter has already requested annulment of the purchase and sale vis-à-vis the Courts.

ARTICLE 841
(Obligation to rehabilitate the contract. Cancellation of recording)

1. The seller is obliged to remedy the annullability of the contract, by lifting the existing encumbrances or limitations.
2. The timeframe for lifting them will be set by the Courts, at the request of the buyer.
3. The seller may also, at his or her own expense, provide for the cancellation of any encumbrance or limitation contained on the record but not actually existing.

ARTICLE 842
(Indemnification in the event of fraud)

In the event of fraud, the seller, once the contract has been annulled, must indemnify the buyer for the damage he or she would not have suffered had the sale gone through.

ARTICLE 843
(Indemnification in the event of simple error)

In cases of annulment due to simple error, the seller is also obliged to indemnify the buyer, even if there is no blame on his or her part, but the indemnification covers only the damages incidental to the contract.

ARTICLE 844
(Non-fulfilment of the obligation to rehabilitate the contract)

1. If the seller is deemed liable for not remedying the annullability of the contract, the corresponding indemnification is added to what the buyer has a right to receive in accordance with the preceding Articles, except insofar as damages were mutual.
2. But under the circumstances provided for in Article 842, the buyer shall choose between an indemnity for loss of earnings due to execution of the contract that was later annulled and loss of earning due to the fact that the annullability was not remedied.

ARTICLE 845
(Reduction in price)

1. If the circumstances show that, without error or fraud, the buyer would have likewise acquired the assets, but at a lower price, he or she shall be entitled only to a reduction in the price in keeping with the devaluation resulting from the encumbrances or limitations, in addition to the indemnification that is applicable under the circumstances.
2. The precepts above are applicable to the reduction in price, with the necessary adaptations.

ARTICLE 846
(Additional provisions)

1. The provisions in Article 841, paragraphs 1 and 3, in Article 843, and in Article 844, paragraph 1, yield to a stipulation by the parties to the contrary, except if the seller has acted fraudulently and the Articles contrary to those rules are aimed at benefiting him or her.
2. Annulment of the purchase and sale contract due to error or fraud does not invalidate the clauses that revoke these additional provisions, in accordance with the provisions of this section.

SECTION VI
Sales of defective things

ARTICLE 847
(Cross-reference)

1. If the thing sold suffers from a defect that devalues it or hinders the purpose for which it is intended, or does not possess the qualities ensured by the seller or necessary to serve its purpose, the provisions in the preceding section shall be observed, with the appropriate adaptations, in all respects that are not modified by the provisions of the articles that follow.
2. When the contract does not result in the purpose for which the thing sold was intended, it shall serve the normal function of things in the same category.

ARTICLE 848
(Repair or replacement of the thing)

The buyer has the right to demand repair of the thing from the seller or, if necessary and it is fungible, its replacement; but this obligation does not exist if the seller was blamelessly unaware of the defect or lack of quality affecting the thing.

ARTICLE 849
(Indemnification in the case of simple error)

The indemnification provided for in Article 843 is also not owed if the seller was in the situation referred to in the final part of the previous Article.

ARTICLE 850
(Notification of the defect)

1. The buyer must notify the seller of the defect or lack of quality of the thing, except in the case of fraud.
2. The notification shall be done within thirty days after the defect is known and within six months after delivery of the thing.
3. The timeframes referred to in the previous paragraph are, respectively, one year and five years if the thing sold is real property.

ARTICLE 851
(Statute of limitations)

The statute of limitations on an action for annulment based on a simple error expires after any of the deadlines set in the previous Article elapse without the buyer having made notification, or six months after notification, without prejudice, in the latter case, to the provisions of Article 278, paragraph 2.

ARTICLE 852
(Supervening defect)

If the thing deteriorates after being sold and before being delivered, becoming defective or losing quality, or if the sale regards something in future or an indeterminate thing of a certain type, the rules regarding non-fulfilment of obligations are applicable.

ARTICLE 853
(Sale based on a sample)

If the sale is made based on a sample, it is understood that the seller ensures the existence in the thing sold of the same qualities as in the sample, except if the agreement or local custom imply that the sample serves only as an approximate indication of the qualities of the object.

ARTICLE 854
(Sale of defective animals)

Specific laws apply to the sale of defective animals, or in their absence, usual local custom applies.

ARTICLE 855
(Guarantee of good working order)

1. If the seller is obliged, by agreement between the parties or by local custom, to guarantee the good working order of the thing sold, it is incumbent upon him or her to repair it, or replace it if replacement is necessary and the thing is fungible, independent of his or her own blame or error on the part of the buyer.
2. Absent a stipulation in the contract, the guarantee period expires six months after delivery of the thing, if local custom does not establish a longer period.
3. The seller must be notified of the defect in functioning within the guarantee period and, unless stipulated to the contrary, up to thirty days after it is known.
4. The statute of limitations for action ends as soon as the notification period has elapsed without the buyer having filed it, or six months from the date on which the notification was made.

ARTICLE 856
(Things that must be transported)

In the case of sale of things that must be transported from one place to another, the time periods where Articles 850 and 855 prescribe counting as of the delivery only begin to elapse on the day on which the creditor receives them.

SECTION VII
Sale subject to satisfaction and sale subject to trial

ARTICLE 857
(First type of sale subject to satisfaction)

1. Purchase and sale subject to the thing pleasing the buyer is valid as a proposal for sale.
2. The proposal is considered to be accepted if, once the thing is delivered to the buyer, the latter makes no complaint within the acceptance period, pursuant to Article 219, paragraph 1.
3. The thing must be made available to the buyer for examination.

ARTICLE 858
(Second type of sale subject to satisfaction)

1. If the parties are in agreement as to unilateral termination of the purchase and sale in the event the thing does not please the buyer, the provisions of Article 367 and following are applicable to the contract.
2. The delivery of the thing is not an obstacle to unilateral termination of the contract.
3. The seller may set a reasonable time period for the termination if none is established in the contract or, absent a stipulation in the contract, based on local custom.

ARTICLE 859
(Sale subject to trial)

1. Sale subject to trial is considered to be done subject to the suspensive condition of the thing being fit for the purpose intended and having the qualities assured by the seller, except if the parties subject it to a resolutive condition.
2. The trial must occur within the time period and in the way established by the contract or by local custom; if both the contract and local custom make no provision, a time period set by the seller and a way chosen by the buyer shall be observed, provided they are reasonable.
3. If the seller is not advised of the result of the trial before expiration of the time period referred to in the preceding paragraph, the situation is deemed to have occurred if the condition is suspensive and not to have occurred if the condition is resolutive.
4. The thing must be made available to the buyer for trial.

ARTICLE 860
(Doubts as to the type of sale)

In the event of doubt as to the type of sale that the parties have chosen, from among those provided for in this section, the first is presumed to have been adopted.

SECTION VIII
« Ad retro » sale

ARTICLE 861
(Concept)

A sale is called “ad retro” when the seller is given the option of unilaterally terminating the contract.

ARTICLE 862
(Null and void clauses)

1. Without prejudice to the validity of the other clauses, a stipulation of payment in cash to the buyer or any other advantage as consideration in return for unilateral termination is null and void.
2. A clause that declares that the seller is obliged to make restitution, in the event of unilateral termination, of a price greater than that set for the sale is likewise null and void as regards the excess.

ARTICLE 863
(Timeframe for unilateral termination)

1. Unilateral termination may occur within two or five years as of the date of the sale, depending upon whether the object is a chattel or real property, unless a shorter period is stipulated.
2. If the parties agree on a time period or an extension of the time period that exceeds the limit of two or five years as of the sale, the agreement is considered to be reduced to that exact limit.

ARTICLE 864
(Form of unilateral termination)

The unilateral termination is done by means of a judicial notification to the buyer within the time periods set in the previous article; if it refers to real property, the unilateral termination will be set out in a public deed in the fifteen days immediately after, with or without the intervention of the buyer, under penalty of lapsing of the right.

ARTICLE 865
(Reimbursement of the price and expenses)

In the absence of a provision in the contract, the unilateral termination is likewise invalid if, within the same time period of fifteen days, the seller does not make the buyer a firm offer of the net sums that must be paid as a reimbursement of the price and expenses with the contract and ancillary charges.

ARTICLE 866
(Effects in relation to third parties)

The ad retro clause is enforceable against third parties, provided the sale has as its object real property, or chattel subject to registration, and has been registered.

ARTICLE 867
(Sale of a jointly owned thing or right)

If a jointly owned thing or right is sold with an ad retro clause, the sellers may only jointly exercise the right to unilaterally terminate.

SECTION IX
Sale in installments

ARTICLE 868
(Failure to pay one installments)

If the thing is sold in installments with a lien and has been delivered to the buyer, the failure to pay a single installments that does not exceed one eighth of the price is not grounds for unilateral termination of the contract nor, whether or not a lien occurs, does it imply loss of the benefit of payment over time for the remaining installments, unless there is some agreement to the contrary.

ARTICLE 869
(Penalty clause in the case of a defaulting buyer)

1. The indemnification established in the penalty clause for default by the buyer may not exceed half the price, except that the parties may stipulate, in general terms, the recoverability of all the damages suffered.
2. The indemnification set by the parties shall be reduced to half the price, when it has been stipulated at a higher value, or when the installments paid exceed that amount and if it has been agreed that they will not be reimbursed; however, in the event of greater damages and no stipulation of their recoverability, they will be reimbursed up to the limit of the indemnification agreed between the parties.

ARTICLE 870
(Other contracts with an equivalent purpose)

1. The provisions of the two preceding Articles extend to all the contracts under which it is intended to obtain a result equivalent to a sale in installments.
2. When renting a thing, with a clause stating that it will become the property of the tenant after all the rents agreed have been paid, the unilateral termination of the contract because the tenant defaults has a retroactive effect, and the landlord must return the amounts received, with no possibility of an agreement to the contrary, but also without prejudice to his or her right to indemnification in general terms and pursuant to the preceding Article.

SECTION X
Sale based on documents

ARTICLE 871
(Delivery of the documents)

In a sale based on documents, the delivery of the thing is replaced by the delivery of the title representing it and of the other documents required by the contract, or if no provision is made in the contract, by local custom.

ARTICLE 872
(Sale of a thing in transit)

1. If the contract has as its object a thing in transit and, such circumstance having been mentioned, there is among the documents delivered an insurance policy against risks of transport, the following rules shall apply, in the absence of a stipulation to the contrary:
a) The price must be paid, even if the thing no longer existed when the contract was entered into, because it was lost fortuitously after having been delivered to the transport company;
b) The contract is not annullable based on defects in the thing that were produced fortuitously after the time of delivery;
c) The risk is to be borne by the buyer as of the date of purchase.
2. The first two rules of the previous paragraph are not applicable if, at the time the contract is signed, the seller already knew that the thing was lost or deteriorated and fraudulently failed to reveal the fact to a good-faith buyer.
3. When the insurance covers only part of the risks, the provisions of this Article are valid solely in relation to the insured part.

SECTION XI
Other contracts for valuable consideration

ARTICLE 873
(Applicability of the rules governing purchase and sale)

The rules governing purchase and sale are applicable to other contracts for valuable consideration under which assets are disposed of or encumbered, insofar as they comply with their nature and do not contradict the respective legal provisions in force.

CHAPTER II
Gifts

SECTION I
General provisions

ARTICLE 874
(Concept)

1. A gift is a type of contract under which a person, in a spirit of liberality and at the cost of his or her own estate, disposes of a thing or of a right gratuitously, or undertakes an obligation to the benefit of the other contracting party.
2. A gift is not deemed to exist in the waiver of rights and in the rejection of an inheritance or legacy, nor in the case of donations in the usual sense.

ARTICLE 875
(Remuneratory gift)

Forbearance from payment for services received, on the part of the donor, not involving an enforceable debt, is considered a gift.

ARTICLE 876
(Object of the gift)

1. The gift may not encompass future assets.
2. If, however, the gift applies to a universe that in fact continues in the donor's usufruct, those particular things that in future will comprise a part of that universe are also considered to be donated, unless there is a declaration to the contrary.

ARTICLE 877
(Periodic installments)

A gift that has as its object periodic installments is extinguished upon the death of the donor.

ARTICLE 878
(Joint gift)

1. A gift made to several persons jointly is considered to be made in equal parts, without the right to additional portions among the donees unless the donor has declared otherwise.
2. The provision in the previous item does not adversely affect the right to additional portions among usufructuaries, when the usufruct has been established by means of a gift.

ARTICLE 879
(Acceptance of the gift)

1. The proposal of a gift lapses if it is not accepted while the donor is still alive.
2. Delivery to the donee at any time of the chattel that has been gifted, or the title representing it, is deemed to constitute acceptance.
3. If the proposal is not accepted at the time it is made or delivery does not occur pursuant to the preceding paragraph, acceptance must comply with the terms of Article 881 and be declared to the donor, under penalty of being invalid.

ARTICLE 880
(Gifting upon death)

1. Gifting upon death is prohibited, except in those cases especially provided for in law.
2. A gift that produces effects upon death of the donor will be deemed a testamentary conveyance if the formalities surrounding wills have been observed.

ARTICLE 881
(Form of the gift)

1. The gifting of real property is only valid if done by means of a public deed.
2. The gifting of chattel does not depend on any external formalities, when accompanied by delivery of the thing being gifted; if not accompanied by delivery of the thing, it may only be done in writing.

SECTION II
Capacity to make or receive gifts

ARTICLE 882
(Capacity to gift)

1. Anyone who can contract and dispose of his or her assets has the capacity to gift.
2. Capacity is regulated by the state in which the donor finds himself or herself at the time of the declaration of intent.

ARTICLE 883
(Personal nature of the gift)

1. It is not permitted to attribute to another person, by power of attorney, the right to designate the person of the donee or determine the object of the gift, except in the cases provided for in Article 2046, paragraph 2.
2. The legal representatives of incapacitated persons may not make gifts in their name.

ARTICLE 884
(Capacity to receive a gift)

1. All those who are not especially barred from it by law may accept gifts.
2. The capacity of the donee is established at the time of acceptance.

ARTICLE 885
(Acceptance by incapacitated persons)

1. Those who are incapacitated to contract may not accept gifts involving duties except through their legal representatives.
2. However, pure and simple gifts made to such individuals produce effects independent of acceptance in all respects that benefit the donees.

ARTICLE 886
(Gifts to the unborn)

1. The unborn, whether already conceived or not, may acquire something by gifting, as the children of a particular person who was alive at the time the declaration of the donor's wishes was made.
2. In a gift to an unborn child, it is presumed that the donor maintains usufruct of the assets gifted until the birth of the donee.

ARTICLE 887
(Case of relative unavailability)

The provisions of Articles 2056 through 2061, duly modified, apply to gifts.

SECTION III
Effects of gifts

ARTICLE 888
(Essential effects)

The following are essential effects of gifting:
a) Transfer of ownership of the thing, or of title to the right;
b) The obligation to deliver the thing;
c) The assumption of the obligation, when that is the object of the contract.

ARTICLE 889
(Delivery of the thing)

1. The thing must be delivered in the condition it was in at the time of acceptance.
2. The obligation to deliver encompasses the component parts, pending fruits, and the documents relating to the thing or right, absent a stipulation to the contrary.

ARTICLE 890
(Gifting of assets belonging to another)

1. The gifting of assets belonging to another is null and void, but the donor may not enforce the nullity against a good-faith donee.
2. The donor is only liable for damages caused the donee when the latter is a good-faith donee and the following circumstances exist:
a) The donor has expressly undertaken the obligation to indemnify for damages.
b) The donor has acted fraudulently.
c) The gift has a remunerative character;
d) The gift is onerous or "modal", with the donor's liability being limited, in this case, to the amount of the charges.
3. The value of the gifted thing or right is attributable as part of the donee's damages, but not the benefits he ceased to obtain as a consequence of the nullity.
4. If indemnification is not admissible, the donee is sub-rogated in the rights that might belong to the donor in relation to the gifted thing or right.

ARTICLE 891
(Onus or defects in the right or thing that is gifted)

1. The donor is not liable for onuses or limitations on the transferred right, or for defects in the thing, except when s/he has expressly taken responsibility or acted fraudulently.
2. The gift is annullable, however, in either case at the request of the good-faith donee.

ARTICLE 892
(Retention of usufruct)

1. The donor is entitled to retain usufruct of the gifted assets for himself or herself or for a third party.
2. If usufruct is retained in favour of various individuals, simultaneously or successively, the provisions of Articles 1364 and 1365 apply.

ARTICLE 893
(Retention of the right to dispose of a particular thing)

1. The donor may reserve the right to dispose of any of the things encompassed by the gift or by the right to a certain sum on the gifted assets, by death or by an inter-vivos act.
2. The reserved right does not transfer to the donor's heirs, and when it refers to real property or chattel subject to registration, it needs to be registered.

ARTICLE 894
(Reversion clause)

1. The donor may stipulate the reversion of the gifted thing.
2. The reversion occurs in the event the donor survives the donee, or the donee and all his or her descendants; where there is no stipulation to the contrary, it is understood that the reversion only operates in the latter case.
3. A reversion clause that refers to real property, or to chattel subject to registration, needs to be registered.

ARTICLE 895
(Effects of reversion)

The gifted assets that under the reversion clause return to the donor's estate pass free and clear of the duties that were imposed while they were in the donee's power or that of third parties to whom they were transferred.

ARTICLE 896
(Replacement of trustees)

1. The replacement of trustees is permitted in gifting.
2. Articles 2149 and following apply to such replacements, with the necessary corrections.

ARTICLE 897
("Modal" clauses)

1. Gifts may be subject to certain duties.
2. The donor is not obliged to comply with the duties except within the limits of the value of the gifted thing or right.

ARTICLE 898
(Payment of debts)

1. If the gift is made with the duty of paying the donor's debts, the clause shall be understood, absent any other declaration, as obliging the donee to pay those debts that existed at the time of the gift.
2. The duty of paying the donor's future debts is only legal if their amount is determined when the gift is made.

ARTICLE 899
(Fulfilment of the duties)

In the case of a "modal" gift, not only the donor or his or her heirs, but also any interested parties possess legitimacy to demand from the donee, or his or her heirs, the fulfilment of the respective duties.

ARTICLE 900
(Unilateral termination of the gift)

The donor, or his or her heirs, may also request unilateral termination of the gift, based on the failure to fulfil the duties, when such right has been granted them by the contract.

ARTICLE 901
(Impossible or illicit conditions or duties)

Conditions or duties that are physically or legally impossible, against the law or public order, or offensive to good morals are subject to the rules established for matters involving wills.

ARTICLE 902
(Confirmation of null and void gifts)

An heir of the donor that confirms the gift after the latter's death or voluntarily executes it, may not take advantage of the nullity of the gift, having been aware of the defect and the right to a declaration of nullity.

SECTION IV
Revocation of gifts

ARTICLE 903
(Revocation of a proposed gift)

1. Until the gift is accepted, the donor may freely revoke his or her declaration of intent, provided the respective formalities are observed.
2. The gifting proposal does not lapse due to the passage of the time period set in Article 219, paragraph 1.

ARTICLE 904
(Revocation of a gift)

Gifts may be revoked due to ingratitude on the part of the donee.

ARTICLE 905
(Cases of Ingratitude)

The donation may be revoked, when the donee becomes incapable, as such donee is no longer worthy of inheriting from the donor, or when such occurrences take place which justify disinheritance.

ARTICLE 906

(Exclusion of Revocation)

The donation shall not be revocable given the unworthiness of the donee:

a) when it is made on the occasion of a marriage;

b) when it is made in the form of remuneration;

c) if the donor has forgiven the donee.

ARTICLE 907

(Time Limit and Legitimacy for Legal Action)

1. Legal action taken to revoke out of unworthiness shall not be proposed after the death of the donee nor by the heirs to the owner, except in such cases as set out in paragraph 3 below and shall expire at the end of a year from the fact originally causing it or from the moment the donor was informed of this fact.

2. In the event of the death of the donor or donee, the legal action, when pending, is transmissible to the heirs of both parties.

3. In the event the donee has committed the crime of homicide against the donor, or in any other way has prevented the donor from revoking the donation, legal action can be taken by the heirs of the donor within a year from such donor's death.

ARTICLE 908

(Inadmissibility of an Early Waiver)

The donor may not waive his or her right to revoke the donation out of unworthiness on the part of the donee beforehand.

ARTICLE 909

(Effects of the Revocation)

1. The effects of the revocation of the donation shall be felt retroactively to the date of the proposal of the legal action.

2. Once the gift has been revoked, the property is restored to the donor or to his or her heirs in its original state.

3. If the property has been sold or cannot be returned in kind for any other reason imputable to the donee, he or his or her heirs shall submit the value it had at the time it was sold or if it was ascertained that the return is impossible, with the legal interest applicable from the time of the proposal of the suit.

ARTICLE 910

(Effects to Third Parties)

The revocation of the donation shall not affect third parties having acquired, prior to the suit, rights in rem in the property donated, without prejudice to the rules concerning registration; in this case, the donee shall indemnify the donor.

CHAPTER III
Company

SECTION I
General Provisions

ARTICLE 911
(Concept)

A corporate agreement is one whereby two or more persons undertake to contribute with goods or services to the joint exercise of a given economic activity, which is not of mere enjoyment, in order to share the profits resulting from this activity.

ARTICLE 912
(Form)

1. A corporate agreement shall not be subject to any specific form, with the exception of whatever is required resulting from the nature of the assets with which the partners enter the company.
2. The non-fulfilment of the form, whenever it is required, shall only cancel all business if it cannot be converted under the terms of the provisions set out in article 284 in such a way that the company shall merely use and enjoy the assets, the transfer of which determining the special form, or in the event the business cannot be distributed, under the terms of article 283, to the other holdings.

ARTICLE 913
(Amendments to the Agreement)

1. Amendments to the agreement shall require the agreement of all partners, unless expressly set out otherwise in the agreement itself.
2. In the event the agreement grants special rights to one or more of the partners, these rights, which have already been granted, cannot be suppressed or restrained without the consent of the corresponding holder, unless expressly stated otherwise.

SECTION II
Relations between Partners

ARTICLE 914
(Down Payments)

1. Partners shall only make the down payments set out in the agreement.
2. The down payments of each partner shall be equal in value, unless otherwise specified in the agreement.

ARTICLE 915

(Service Provision, Guarantee and Overall Risk)

The service provision, guarantee and risk are regulated under the following terms:

a) Should the down payment consist of a transfer or constitution of a right in rem, as under the rules and regulations set out in the sale and purchase agreement;

b) Should the partner be obliged to offer the company the use and enjoyment of only one object, as under the provisions of the lease agreement;

c) Should the down payment consist of the transfer of a loan or a contractual position, in accordance with the provisions of the assignment of loans or assignment of contractual position respectively, assuming that the partner shall guarantee the solvency of the debtor.

ARTICLE 916

(Management)

1. Unless otherwise stated, all partners shall be entitled to manage.
2. When all or some of the partners hold a position in the management of the company, any of the directors shall be entitled to oppose any act that another director may want to have carried out and it shall be up to the majority to decide upon the merit of such opposition.
3. In the event the agreement grants the management to all or several partners together, it shall be considered that in case of doubt, the decisions may be taken by majority.
4. Unless otherwise stated, a decision taken by majority shall be considered as one with votes from over a half of the directors.
5. Even if for the overall management or for certain category of acts the consent of all directors or a majority of them is required, any director shall be entitled to practise urgent acts of management to prevent the company from falling into any imminent damage.

ARTICLE 917

(Alterations to the Management)

1. The clause in the agreement granting the management of the company to a partner may be revoked, at the request of any other partner, in the event of justa causa.
2. Special cases of revocation may be included in the agreement but the interested parties must abide by paragraph one above.
3. The appointment of directors made on a later occasion may be revoked by majority decision of the partners, the rules of the term of office regarding any other matters being applicable to the revocation.

ARTICLE 918

(Rights and Obligations of the Directors)

1. The rules covering the term of office shall apply to the rights and obligations of the directors.
2. Any partner may render effective the responsibility the director is subject to.

ARTICLE 919
(Monitoring by the Partners)

1. No partner may be prevented from, not even by way of any clause in the agreement, the right to obtain information that he needs from the directors on the company business or from consulting the documents pertaining to such company business and from rendering the accounts.
2. The accounts are rendered at the end of each calendar year, unless otherwise stated in the agreement or unless the duration of the company is expected to be of less than a year.

ARTICLE 920
(Use of Company Property)

No partner may use, without the unanimous consent of the partners, any company equipment for reasons not pertaining to the company.

ARTICLE 921
(Interdiction to Compete)

Any partner who, without the express authorisation of all other partners, undertakes, on his or her own behalf or on behalf of others, an activity equal to that of the company shall be responsible for any losses caused to it and may even be excluded under the terms of sub-paragraph a) of article 934.

ARTICLE 922
(Periodic Profit Distribution)

In the event the contracting parties have not decided upon the fate of the profits of each tax year, the partners shall be entitled to be assigned them, under the terms set out in the following article, upon deduction of the quantities allocated, by majority decision, to the fulfilment of corporate matters.

ARTICLE 923
(Profit and Loss Distribution)

1. In the absence of any agreement to the contrary, the partners participate in the profits and losses of the company according to the proportion of the corresponding down payments.
2. Unless otherwise stated in the agreement, the service partners shall not, in internal relations, be held responsible for corporate losses.

3. If the agreement does not set out the part of the service partner in the profits nor the value of his or her contribution, his or her part shall therefore be calculated by the court on an equitable basis; and the part of that partner who undertook to provide the company with the use and enjoyment of only one service shall be assessed in the same way.
4. In the event the agreement merely refers to the part of each partner in the profits, it shall be assumed that his or her part in the losses is the same.

ARTICLE 924
(Division Approved to Third Parties)

1. It having been agreed that the division of the profits and losses shall be undertaken by a third party, who shall do so on an equitable basis, whenever not stated otherwise; if the division cannot be made or has not been made within the allotted time, it shall be done so by the court according to the same bases.
2. All partners are entitled to question the division made by a third party, within a delay of six months from the day they were informed of such division.
3. However, the reception of the corresponding profits cancels out the right to question the division, unless the division had been contested previously, or if, at the time of receipt thereof, the causes of the dispute were as yet unknown.

ARTICLE 925
(Leonine Convention)

The clause which excludes a partner from the distribution of profits or which prevents him from participating in the losses of the company shall be rendered null and void, except in the case of the provisions set out in article 923, paragraph 2.

ARTICLE 926
(Transfer of Shares)

1. No partner may transfer his or her stock to a third party without the consent of all the partners.
2. The transfer of shares is subject to the form required for the transmission of company property.

SECTION III
Relations with Third Parties

ARTICLE 927
(Representation of the Company)

1. The company is represented in and out of court by its directors, under the terms of the agreement or in harmony with the rules set out in article 916.
2. When the decisions on the extinguishment of or alteration to the powers of the directors are not subject to registration, they shall not be enforceable against third parties who were unaware of them at the time they entered into an agreement with the company; ignorance may never be used as an excuse however, whenever the decision has been given sufficient publicity.

ARTICLE 928

(Responsibility vis-à-vis Corporate Obligations)

1. The company and, jointly and severally, the partners are liable for the company debts.
2. However, the partner requested to pay the debts of the company may demand the execution of company property.
3. The responsibility of the partners who are not directors may be altered, limited or excluded by express clause in the agreement, except in the case the management is solely in the hands of third parties; if the clause is not subject to registration, the provisions set out in paragraph 2 of the article above shall be applicable in terms of its enforceability against third parties.
4. The partner may not free himself or herself of the responsibility of a given debt under the pretext that it occurred before he joined the company.

ARTICLE 929

(Liability for Unlawful Acts)

1. The company is civilly responsible for the acts or omissions of its representatives, agents or delegates under the same terms which principals are responsible for the acts or omissions of their agents.
2. In the event the injured party cannot be fully reimbursed by way of company assets or the property of the representative, agent or delegate, the injured party will be able to demand what is missing from the partners, under the same terms in which any company creditor could do the same.

ARTICLE 930

(Individual Creditor of a Partner)

1. As long as the company is operational, and the debtor's assets are sufficient, the individual creditor of a partner may only execute the latter's right to the profits and his or her share of the settlement.
2. In the event the remaining property of the debtor is insufficient, the creditor may demand the settlement of the share of the debtor under the terms of article 952.

ARTICLE 931

(Compensation)

No compensation is admitted between that which a third party owes to the company and his or her credit vis-à-vis one of the partners, nor between what the company owes to a third party and the credit that one of the partners may have vis-à-vis the former.

SECTION IV
Death, exoneration or exclusion of partners

ARTICLE 932
(Death of a partner)

1. In the event of the death of a partner, unless otherwise stated in the agreement, the company shall settle his or her share in favour of his or her heirs; but the remaining partners are entitled to opt for the dissolution of the company or its continuation with the heirs should they come to an agreement with them.
2. The option for dissolution of the company is only enforceable against the heirs of a deceased partner if they are notified within sixty days from the date the remaining partners became aware of the death.
3. Once the company has been dissolved, the heirs shall be responsible for all rights pertaining to the share of the deceased partner in the company in liquidation.
4. Once the heirs have been summoned to the company, they may, of their own free will, divide the part of their predecessor among themselves or nominate one or some of them to control it.

ARTICLE 933
(Exoneration)

1. All partners are entitled to exonerate themselves from the company if the length of such exoneration has not been set out in the agreement; for this purpose the duration of the company, which has been set out in the agreement and if the company has been constituted for the life span of a partner or for a period of over thirty years, shall not be considered.
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2. Should the time limit be established, the right to exoneration can only be exercised under the conditions established in the agreement or in the event of justa causa.
3. The exoneration only becomes effective at the end of the financial year in which the corresponding notification is made but never before three months have elapsed since the notification.
4. The legal causes for exoneration may not be suppressed or altered; the suppression of or alteration to the contractual causes requires the agreement of all the partners.

ARTICLE 934
(Exclusion)

The exclusion of a partner may occur as set out in the agreement, or in the following cases:
a) When the partner is responsible for the serious violation of obligations vis-à-vis the company;
b) In the event of interdiction or incapacitation;
c) When, in the case the partner is a service partner, he cannot provide the company with the services which he had undertaken to provide;
d) When, for reasons not imputable to the directors, the object or right which entitled the partner to become part of the company has perished under the terms of the article below

ARTICLE 935
(Perishing of the Act)

The perishing of the act is sufficient grounds for the exclusion of a partner:

a) In the event the down payment consist of the transfer or constitution of a right in rem in an object and it perishes before it is delivered;

b) In the event the partner joined the company only with the use and enjoyment of the lost object.

ARTICLE 936
(Decision on the Exclusion)

1. The exclusion depends on a majority vote by the partners, not including the partner in question in this number, and shall become effective thirty days from the date of the corresponding notification to the excluded partner.

2. The partner's right to dispute this expires once the time limit referred to in paragraph 1 above lapses.

3. In the event the company only has two partners, the exclusion of either one of them may only be announced by the competent courts.

ARTICLE 937
(Efficiency of the Exoneration or Exclusion)

1. Exoneration or exclusion does not exempt the partner from his or her responsibility vis-à-vis third parties to undertake his or her pending corporate obligations until the exoneration or exclusion produces their effects.

2. Exoneration and exclusion which are not subject to registration are not enforceable against third parties who unaware of them at the time they entered into an agreement with the company; ignorance may never be used as an excuse however, whenever the decision has been given sufficient publicity.

SECTION V
Dissolution of the Company

ARTICLE 938
(Causes of Dissolution)

A company dissolves:

a) By agreement of the partners;

b) As the duration set out in the agreement has elapsed and there is no extension;

c) As the corporate object has been fulfilled or because it has become impossible to do so;

d) As there is only one partner left, if this plurality has not been reconstituted within a period of six months;

e) By judicial decision which has declared it insolvent;

f) For any other reason set out in the agreement.

Article 939
(Dissolution by Agreement. Extension of the Duration)

1. The dissolution by agreement requires the unanimous vote of the partners unless the agreement permits the alteration to the clauses or the dissolution of the company by a simple majority vote.
2. The extension of the length of time set out in the agreement may be validly and collectively agreed upon until further notice; the company shall be tacitly considered as extended for an undetermined period of time if the partners have continued to carry out their company activities, except if the circumstances show that this was not the intention.

Article 940
(Powers of Directors upon Dissolution)

1. Once the company has been dissolved, the powers of the directors shall be limited to the practice of acts concerning the daily operations and, in the event no liquidator has been appointed, to the acts required for the liquidation of company assets.
2. For the obligations that the directors take on vis-à-vis the provisions set out in the paragraph above, the company and the other partners only respond to third parties if the latter have been acting in good faith or when, in the event that the dissolution must be registered, this has not been done; in all other cases, the directors singly and jointly respond to the obligations that they have assumed.

SECTION VI
Company and Stock Liquidation

ARTICLE 941
(Company Liquidation)

Once the company has been dissolved, the liquidation of its assets shall be carried out.

ARTICLE 942
(Form of Liquidation)

1. In the event the agreement has not set out the form of liquidation, this shall be settled by the partners; in the lack of a unanimous agreement, the provisions of the following articles and those of procedural laws shall be complied with.
2. In the event the time limit for liquidation has not been defined, any partner or creditor may request that it be defined by the courts.

ARTICLE 943
(Liquidators)

1. Liquidation is of the responsibility of the directors.
2. In the event the agreement entrusts the appointment of the liquidators to the directors and no agreement can be reached, the appointment shall be made by the competent courts at the initiative of any of the partners or creditors.

ARTICLE 944

(Position of the Liquidators)

1. The position of the liquidators is identical to that of the directors, with the alterations included in the following articles.
2. Except in the event of an agreement by the partners to the contrary, the decisions taken by the liquidators shall be taken by majority.

ARTICLE 945

(Initial Terms of Liquidation)

1. In the event the liquidators are not the directors, they former should request from the latter that company assets, books and documents be submitted to them, as well as the accounts related to the last management period; if they are not submitted it should be left to the competent courts to demand this submission.
2. An inventory shall obligatorily be drawn up and shall be used to know the situation of the company assets; the inventory shall be drawn up jointly by directors and liquidators.

ARTICLE 946

(Powers of the Liquidators)

The liquidators shall be responsible for carrying out all the necessary acts for the liquidation of company assets, finishing any pending business, collecting credits, selling property and paying the creditors.

ARTICLE 947

(Payment of Liabilities)

1. The liquidators are forbidden from distributing company property before the company creditors have been paid or the amounts required have been established.
2. When company assets are not sufficient for the settlement of the liabilities, the liquidators may demand from the partners, in addition to the down payments still owed, the necessary amounts, proportional to the part of each one in the losses and within the limits of their corresponding responsibility; should a partner be insolvent his or her part shall be divided among the remaining partners under the terms set out.

ARTICLE 948

(Return of the assets allocated under the regime of use and enjoyment)

1. The partner who joined the company with the right to use and enjoy certain assets is entitled to withdraw them in the state they are in.
2. In the event the assets have been lost or their state has been deteriorated due to reasons imputable to the directors, they and the company singly and jointly shall be responsible for the damage.

ARTICLE 949
(Distribution)

1. Once the company debt has been paid, the remaining assets shall in first place be used for the reimbursement of the down payments made, with the exception of the contributions of services and those of the use and enjoyment of certain assets.
2. In the event full reimbursement cannot be made, the existing assets shall be distributed among the partners in such a way that the missing amount falls on each one proportionally to their part in the company losses; should there be a balance once the reimbursement has been made, it shall be divided among them according to the part they are entitled to in the profits.
3. The down payments which are not in cash are estimated to the value they had at the date of constitution of the company, unless they had been allocated another value in the agreement.
4. Even if not set out in the agreement, the partners may agree that the distribution of the assets be done in kind.

ARTICLE 950
(Return to Company Activity)

1. As long as the distribution of assets has not been finalised, the partners may recommence company activity, if unanimously decided upon.
2. In the event the dissolution has resulted from repeated non-fulfilment of the law, it is necessary that the circumstances which brought this about have ceased to exist.

ARTICLE 951
(Responsibility of Partners upon Liquidation)

Once liquidation has been completed and the company closed down, the former partners continue to be responsible vis-à-vis third parties for the payment of debts which have not yet been settled, as if there had been no liquidation.

ARTICLE 952
(Stock Liquidation)

1. In the event of death, exoneration or exclusion of a partner, the value of their shares is set based on the state of the company on the date on which the fact determining liquidation occurred or produced effects; if there is ongoing business, the partner or the heirs shall participate in the profits and losses resulting therefrom.
2. In the assessment of the share rules nos. 1 to 3 of article 949, where applicable, shall be observed with the necessary adaptations.
3. The payment of the amount of the liquidation must be made, unless agreed otherwise, within a period of six months from the day the fact determining the liquidation occurred or produced effects.

CHAPTER IV
Leasing

SECTION I
General Provisions

ARTICLE 953
(Concept)

Leasing is an agreement by which one of the parties undertakes to provide to the other party the temporary use of an object by way of payment.

ARTICLE 954
(Leasing)

Leasing is when a moveable or immoveable asset is let or rented out.

ARTICLE 955
(Leasing as an Administrative Act)

Leasing constitutes a regular administrative act for the lessor, except when entered into for a period of over 6 years.

ARTICLE 956
(Lease of an Undivided Asset)

1. The lease agreement, concerning an undivided asset, depends, for its validity, on the agreement of all co-proprietors.
2. Any act carried out in breach of the provisions set out in the above paragraph shall be considered null and void; however, the annulment can be remedied by the subsequent consent given by the co-proprietors who represent the majority required to render the act valid.
3. Consent must be given in the form to which the lease agreement is subject.

ARTICLE 957
(Maximum Duration)

The lease may not be entered for more than fifty years; when it is stated that it has a longer duration or that it is a perpetual agreement, it shall be considered as reduced to the limit of fifty years.

ARTICLE 958
(Default Period)

1. When not specified, the duration of the lease agreement shall be considered equal to the unit of time to which the fixed payments correspond, and that of the lease to the period of 1 year.
2. The provisions in the final part of the above paragraph shall be without prejudice to the regime set out in paragraph 2 of article 1022 concerning the termination of the lease.

ARTICLE 959
(Termination of Agreement)

1. Should the purpose of the leased object not result from the agreement and corresponding circumstances, the lessee may apply it to any licit purpose, within the scope of the normal function of objects of the same nature.
2. As it is a lease, the provisions set out in article 1018 shall be applied.

ARTICLE 960
(Multiple Aims and Purposes)

1. In the event one or more objects are leased for different purpose, although not answerable to each other, the corresponding regime of each one should however be observed.
2. The causes for nullity, annulment or settlement which concern one of the purposes do not affect the remaining part of the lease, except when the description of the objects or parts of the object corresponding to the different aims do not result from the agreement or its circumstances.
3. If however one of the aims is principal and the others subordinate, the regime corresponding to the principal aim shall prevail; the other regimes shall only be applicable if they do not affect the former and their application is not shown to be incompatible with the principal aim.

SECTION II
Obligations of the Lessor

ARTICLE 961
(Specifications)

The lessor shall be obliged to:
a) deliver the leased object to the lessee;
b) ensure that the lessee enjoys it for the purposes for which it was leased.

ARTICLE 962
(Fault in the Leased Object)

When the leased object presents a fault that does not allow it to fully carry out the purpose for which it is intended, or lacks the qualities necessary for this end or guaranteed by the lessor, the agreement shall be considered as not having been complied with:
a) If the fault dates at least back to the moment of delivery and the lessor does not prove that he was innocently unaware of the fact; or
b) If the fault emerged subsequently to the delivery at the fault of the lessor.

ARTICLE 963
(Cases of irresponsibility on the part of the lessor)

The provisions set out in article 962 above shall not be applicable:
a) If the lessee was already aware of the fault when he entered into the agreement or received the object;
b) If the fault already existed at the time the agreement was entered into and was easily recognisable, unless the lessor had made away with it or willfully concealed it.
c) If the fault is of the responsibility of the lessee; or
d) If the lessee did not inform the lessor of the fault, as was his or her duty.

ARTICLE 964

(Legal Incapacity of the Lessor or Deficiencies in his or her Rights)

1. The provisions set out in the two articles above are applicable with the necessary adjustments:

a) If the lessor is not in a position to provide to a third party the enjoyment of the leased object;

b) If his or her right is not one of ownership or is subject to any burden or limit which exceeds the normal limits inherent in this right; or

c) If the right of the lessor does not possess the attributes that he endured or these attributes have subsequently ceased, such action being caused by him.

2.The circumstances described in the previous paragraph concern the lack of fulfilment of the agreement when they determine the definitive or temporary privation of the enjoyment of the object or decrease of such enjoyment by the lessee.

3. The provisions set out in sub-paragraph b) of paragraph 1 above shall not be in prejudice to the legal incapacity of the promised buyer of the building or fraction thereof to lease them, this tradition having existed in the building and integral payment of the price.

Article 965

(Annulment by Error or Wilful Misconduct)

1. The provisions set out in articles 962 and 964 do not preclude the annulment of the agreement by error or wilful misconduct, in the case the circumstances which resulted in the invalidity of the agreement occurred at the same time as the agreement was in force.

2. The provisions set out in articles 896 and 910, with the exception of article 909, shall be applied, with the necessary adjustments, to the cases set out in the paragraph above.

ARTICLE 966

(Acts which Prevent or Reduce the Enjoyment of the Object)

1. Unless otherwise agreed, the lessor may not undertake acts which prevent or reduce the enjoyment of the object by the lessee, with the exception of those provided by law or custom or when, on a case by case basis, the lessee consents, but has no obligation to provide this enjoyment in the event of acts carried out by third parties.

2. The lessee who is deprived of the object or disturbed in the exercise of his or her rights may use, even against the lessor, the means of defence provided to the holder in accordance with articles 1196 and following articles.

SECTION III
Obligations of the Lessee

ARTICLE 967
(Specifications)

The obligations of the lessee are:

a) To pay the rent or lease;

b) To provide the lessor with the right to examine the leased object;

c) To ensure the object is not used for a purpose different from that for which it was leased;

d) Not to make improper use of it;

e) To make urgent repairs, as well as any other works ordered by the public authorities;

f) Not to provide a third party with the total or partial enjoyment of the object by way of transfer, paid or unpaid, of its legal position, sublease or loan, unless it is allowed by law or the lessor so authorises.

g) To inform the lessor, within 15 days, of the provision of the use of the object for one of the above mentioned purposes, when permitted or authorised;

h) Not to charge the sub-lessee rent or lease higher than that permitted under the terms of article 944 ;

i) To immediately advise the lessor, whenever aware of faults in the object, or whenever aware of the threat of any danger or whenever third parties assume rights in relation to the object, when such fact is ignored by the lessor;

j) To return the leased object upon termination of the agreement, under the terms of paragraph 1, article 1009.

SECTION IV
Costs Pertaining to the Leased Object

ARTICLE 968
(General Principle)

The costs pertaining to the leased object fall on the lessor, unless the law requires they fall on the lessee or that there is an agreement between lessor and lessee as to the transfer of such costs from the former to the latter.

ARTICLE 969
(Transfer of Costs Agreement. Requirements)

1. The agreement to transfer the costs to the lessee shall, under penalty of annulment:

a) Be made in writing and signed by the lessee; and

b) Specify which costs are to be charged to the lessee.

2. The annulment of the agreement shall not affect the validity of the remaining clauses of the agreement.

ARTICLE 970
(Regime)

1. For the purposes of the provisions set out in the article above, the parties may set an amount to be paid on a monthly basis, subject, unless otherwise agreed, to eventual subsequent adjustments; the clause which establishes the amount may set out, whenever necessary, the formulae for revision or upgrading.
2. When eventual subsequent adjustments are to take place, the lessor shall, at least once a year, advise the lessee of all the information required for the definition and verification of the costs under his or her responsibility.
3. Even when there are no eventual subsequent adjustments, the lessee shall always be entitled to the right to obtain the judicial reduction of the amount established in the event there is gross disproportion between the amount paid and the corresponding costs.
4. In the cases where no monthly amount has been established, the lessor must inform the lessee, with reasonable advance notice, of all the information necessary to establish and verify the costs under his or her responsibility.
5. In the event of the paragraph above, and unless otherwise set out in the agreement, the obligations concerning the costs pertaining to the lessee shall fall due at the end of the month following the communication by the lessor, and should be paid simultaneously with the payment of the subsequent rent or lease.

SECTION V
Works

ARTICLE 971
(Legal Repairs)

1. It is legal for the lessee to carry out small repairs to the leased object when they become necessary to guarantee his or her comfort.
2. The above mentioned repairs in the paragraph above should however be repaired by the lessee before the object is returned, unless set out otherwise.

ARTICLE 972
(Type of Works)

1. The objects may be subject to regular conservation works, extraordinary conservation works and works of improvement.
2. Regular conservation works are generally:

a) Works aimed at repairing the object or maintaining it in the conditions required by the purpose of the agreement and existing on the date it is entered into;

b) In the agreements, the object of which is town property, the works imposed by Public Administration under the terms of the law and which are aimed at maintaining a habitable level suitable to the property and its fractions.

3. Extraordinary conservation works are those brought about by faults in the construction or manufacture of the object or fortuitously or by force majeure and, in general, those conservation works which, not being imputable to illicit actions or omissions committed by the lessor, exceed in the year in which they are required, two thirds of the net income of the object in that year.
4. Works of improvement are all those which are not covered in paragraphs 2 and 3 above.

ARTICLE 973
(Execution of the Works)

1. Regular conservation works are of the responsibility of the lessor, without prejudice to articles 971 and 1009.
2. Extraordinary conservation and improvement works are of the responsibility of the lessor when, under the terms of the law, their execution is ordered by the competent authorities or when there has been a written agreement by the parties with the purpose of execution of such works, with a detailed description of the works to be carried out.
3. The execution of the works referred to in the paragraph above shall result in the updating of the rents or leases under the terms of articles 984 and 987.
4. All the rights held by the lessee and lessor shall be preserved vis-à-vis third parties.

ARTICLE 974
(Execution by the Lessee)

1. When the lessor, upon being notified by the competent authorities, does not, within the time limit set, begin the conservation or improvement works for which he is legally responsible, the lessee may proceed to their execution.
2. The onset of the works should however be preceded by the drafting of a quotation for the corresponding cost, to be communicated in writing to the lessor, and shall represent the maximum amount for which he is responsible.
3. In the event there is more than one lessee, the provisions set out in the paragraphs above, concerning the common parts, requires the consent of at least half of them which would bind the remaining lessees.

ARTICLE 975
(Urgent Works)

1. In the event the lessor is in arrears in terms of his or her obligation to undertake the works which, given their urgency, cannot wait for long judicial procedures, the lessee may carry them out irrespective of the judicial procedures and is entitled to the reimbursement of the costs.
2. When the urgency allows for no extension of time limits, the lessee may carry out the works, also entitled to be reimbursed, irrespective of the arrears of the lessor, but shall be informed nevertheless.

ARTICLE 976
(Reimbursement to the Lessee)

1. In the cases of the works carried out under the terms of the provisions set out in articles 974 and 975, if the lessor does not voluntarily make the payment, the lessee may discount it from the rent or lease up to sixty percent of the amount, plus the corresponding legally applicable interest, during the time required until it is fully reimbursed.
2. The provisions in the paragraph above shall not be in prejudice to the right of the lessor to discuss, through common means, the cost of the works, and in the case of the article 975, the necessity and urgency of these works.

SECTION VI
Rent or Lease

SUBSECTION I
General Provisions

ARTICLE 977
(Time and Place of Payment)

1. The payment of rent or lease shall be made on the first day of the duration of this agreement or of the period it covers, and at the residence of the lessee on the due date, should the parties not have established any other regime.

ARTICLE 978
(Advance Payment)

1.
2. The parties shall be allowed to agree on the advance payment of the rent or lease, added by a deposit, by way of guarantee.

ARTICLE 979
(Due Date)

Unless otherwise accorded, if the rents or leases are in tune with the Gregorian calendar months, the first rent or lease shall fall due with the signing of the agreement and each one of the following shall fall due on the first working day of the month which they concern.

ARTICLE 980
(Arrears of the Lessee)

1. Where the lessee is in arrears, the lessor is entitled to demand, in addition to the rents or leases in arrears, compensation equal to half of the amount that is due, unless the agreement is terminated based on the lack of payment;
2. if the arrears exceeds 30 days, the aforementioned compensation shall be doubled.
3. Such right to compensation or to the termination of the agreement shall cease where the lessee pays the amount in arrears within a period of 10 days from its commencement.
4. Until the obligations referred to in paragraph 1 and 2 above are fulfilled, the lessor shall be entitled to refuse to receive the following rents or leases, which shall be for all purposes considered due.
5. The receipt of new rents or leases does not preclude the lessor from the right to terminate the agreement or the aforementioned compensation, based on the amounts in arrears.
6. The sanction set out in article 764 cannot be applied to the arrears of the lessee in the payment of the rents or leases.

ARTICLE 981
(Deposit of rents or leases in arrears)

Where the lessee deposits the rents or leases in arrears, as well as the compensation, when due, set out in paragraph 1 and 2 of the article above, and within a period of 5 days requests judicial notification of the deposit to the lessor, it shall be assumed that he has been offered and refused the corresponding payment, putting an end to the arrears.

ARTICLE 982
(Reduction of Rent or Lease)

1. Unless otherwise stated, and without prejudice to the provisions set out in Section II, if, for reasons not caused by his or her person or his or her family members, the lessee is deprived of the enjoyment of the leased object or the enjoyment of the leased object is reduced, there will be a reduction in the rent or lease proportional to the deprivation or decrease and its extension.
2. But should the deprivation or decrease not be imputable to the lessor nor his or her relatives, the reduction shall only take place in the case of one or other exceeding a sixth of the duration of the agreement.
3. The lessee shall inform the lessor in writing and no later than 30 days from the time of deprivation or reduction of the enjoyment of the leased object the reason for the reduction and its amount
4. The provisions set out in the paragraph above shall not be in prejudice to the right of the lessor to discuss, through common means, the deprivation or reduction of the enjoyment of the object or its amount.
5. 5For the purposes of this article, family members shall refer to the spouse, the relatives and others who normally share the same table and residence as the lessee or lessor.
6. In rural leases the provisions set out in article 1036 shall also be applied.

SUBSECTION II
Updating of Rents and Leases

DIVISION I
General Provisions

ARTICLE 983
(Cases of updating)

The rents and leases are can be updated:

a) Under the terms and conditions which result from the agreement or by subsequent agreement by the parties; or
b) Depending on the extraordinary conservation and improvement works of the object that the lessor has been administratively compelled to undertake, except when payment of these works can be demanded from third parties.

DIVISION II
Updating due to Works

ARTICLE 984
(General Provisions)

1. The increase translated by the updating of the rent or lease due to works, referred to in sub-paragraph b) of paragraph 1 of the previous article cannot exceed by a month and, in the absence of an agreement, a twelfth of the proceeds resulting from the application of the legally applicable interest rate to the total cost of the twelfth.
2. The new amount shall be due as of the rent or lease following completion of the works.

ARTICLE 985
(New Rent or Lease)

1. The lessor shall inform the lessee in writing with a minimum advance notice of 30 days of the new amount and the data used in its calculation
2. The new rent or lease shall be considered as accepted when the lessee does not disagree with the terms of the following article.
3. When the amount set out in paragraph 1 is not a multiple of the currency with legal tender it shall be rounded off to the unit immediately higher.
4. In the case of a rural lease and rent paid in kind, the amount updated can be converted by adding to the payment in kind, determined according to the value of them at the date of the updating.

ARTICLE 986
(Non-acceptance by the Lessee)

1. Without prejudice to the provisions set out in article 1008 as to the right to unilateral revocation, the lessee may refuse the new rent or lease based on erroneous relevant facts or error in the application of the law.
2. The refusal, accompanied by the corresponding grounds, shall be communiated to the lessor in writing within a period of 15 days from the receipt of the notification of the increase, and where the lessee shall indicate the amount he considers correct.
3. The lessor may reject the amount indicated by the lessee by way of written notification and this shall be addressed and sent to within a period of 15 days from the reception of the notification of the refusal.
4. The silence of the lessor shall be construed as acceptation of the indication of the lessee
5. A refusal of the new rent or lease by reasons other than those indicated in paragraph 1 above shall render the lessee in default.

ARTICLE 987
(Works Carried out by Agreement)

1. When the works are carried out by agreement of both parties, a compensatory increase in the rent or lease may be freely accorded.
2. The alteration of the rent or lease, due to the accorded works, can only be proven in writing.

SECTION VII
Transfer of contractual position

ARTICLE 988
(Transfer of the position of the Lessor)

1. He who acquires the right based on which the agreement was entered into succeeds the lessor in terms of rights and obligations, without prejudice to the rules of registration.

2. The lesser shall be entitled to the right of preference in the purchase and sale or dation in fulfilment of the rented place.

ARTICLE 989
(Granting or Transfer of Rents or Leases)

The granting or transfer of undue rents or leases is unenforceable against the living successor of the lessor, given that such rents or leases respect periods of time not having elapsed until the date of succession, unless when the granting or transfer are included in the act of sale of the right based on which the agreement was entered into, through the written declaration signed by the acquiring entity.

ARTICLE 990
(Transfer of the Position of the Lessee)

1. The contractual position of the lessee is transferable by his or her death or, in the case of a company, by its closure, if this has been accorded in writing or when admitted by law.
2. The transfer of the position of the lessee is subject to the general regimes of article 359 and following articles, without prejudice to the special provisions of this chapter and other legislation.
3. The transfer of the contractual position of the lessee to a third party does not imply the suspension or the interruption of the duration of the agreement nor does it lead to any alteration in its content.

SECTION VIII
Sublease

ARTICLE 991
(Concept)

The lease is considered a sublease when the lessor enters into such agreement based on the right of the lessee coming from a preceding lease agreement.

ARTICLE 992
(Authorisation)

1. The authorisation to sublease is subject to the form required for the lease.
2. Nevertheless, non-authorised sublease shall be considered as ratified by the lessor when he acknowledges the sub-lessee as such.
3. The mere acknowledgement of the fact that the object was subleased does not constitute acknowledgement of the sub-lessee as such.

ARTICLE 993
(Effects)

1. The sublease only produces effects vis-à-vis the lessor or to third parties from its acknowledgement by the lessor or from the notification referred to in sub-paragraph g) of article 967 .
2. No notification is required when the sublease has been specially constituted by the lessor on behalf of a certain person and that it takes place up to 90 days upon authorisation, or when the lessor acknowledges the sub-lessee as such.

ARTICLE 994
(Rent or Lease)
The lessee may not charge the sub-lessee rent or lease higher or proportionally higher than that owed through the lease agreement, plus twenty percent, unless otherwise agreed with the lessor.

ARTICLE 995
(Lapsing)
1. The sublease shall lapse with the termination, for whatever reason, of the lease agreement, without prejudice to the responsibility of the lessee in relation to the sub-lessee, when the termination of such agreement is imputable to him.
2. The sublease shall not lapse by way of the revocation of the lease agreement accorded by the parties nor by the confusion existing between the capacity of lessor and lessee, and in such cases the sub-lessee shall succeed to the rights and obligations of the lessee.

ARTICLE 996
(Rights of the Lessor in Relation to the Sub-lessee)
1. In the event the lessor receives any rent or lease from the sub-lessee and submits a receipt upon termination of the lease, the sub-lessee shall be considered the direct lessee.
2. If both the lessee and the sub-lessee are in arrears in terms of their corresponding rent or lease debts, the lessor may request that the sub-lessee pay him what he owes, up to amount of his or her own credit.

SECTION IX
Termination of Agreements

SUBSECTION I
General Provisions

ARTICLE 997
Termination of the Lease
1. The lease may terminate due to:
a) Revocation accorded between the parties;
b) Termination;
c) Lapsing; or
d) Unilateral revocation
2. The lease may terminate by way of the means referred to in the paragraph above and also by serving a notice of termination, subject to the regime of articles 1022 and 1023.
3. The provisions set out in this section on termination, lapsing, unilateral revocation and also through notice of termination are legally binding.

ARTICLE 998
(Formal Notice)

1. The termination of the lease shall take place by way of formal notice addressed to the other party, in the form set out in the law.
2. Formal notice shall be effected through a summons, when judicial action is required, or when out of court by notification; as it is a lease the notification shall be undertaken in writing.
3. The acknowledgement by the lessee of the fact leading to the termination of the lease also produces the effects of a formal notice; as it is immoveable property, the acknowledgement shall result from document signed by the lessee or document issued by him.
4. Formal notice given by the lessor, when carried out under the terms of the law, takes effect from the legally established time of the vacation of the leased object and its submission with the repairs under the responsibility of the lessee.

ARTICLE 999
(Undisputed Execution)

Besides the other cases in which, under a special provision, there is an enforcement order for the return of the leased object, the lease agreement, whose signatures shall be certified by a notary public shall also constitute an enforcement order for the same purpose:

a) In the case of revocation of the agreement accorded by the parties, with the agreement consisting of a written document with the physical acknowledgement of the signatures;
b) In the case of the lapsing of the agreement carried out under the terms of sub-paragraphs a) and d) of article 1006;
c) In the case of notice of termination of the lease requested by the landlord under the terms of the law, and as long as the certificate of judicial notification separate from the notice of termination is attached.

SUBSECTION II
Revocation by Agreement between the Parties

ARTICLE 1000
(Regime)

1. The parties may at any time terminate the agreement by mutual agreement.
2. The agreement referred to in paragraph 1 above shall be entered into in writing, whenever it is not immediately executed or whenever it contains compensatory clauses or any other accessory clauses.
3. The revocation shall always be valid, irrespective of its form, when the lessee returns the enjoyment of the object to the lessor who accepts this return.

SUBSECTION III
Termination

ARTICLE 1001
(Non-fulfilment)

1. The lessee may terminate the agreement under the general terms of the law, based on the non-fulfilment by the other party.
2. The termination of the agreement based on lack of compliance by the lessee shall be decreed by the courts; as it is a lease, the landlord may only terminate the agreement in the cases set out in article 1018.

ARTICLE 1002
(Lapsing of the Right to Request Termination)

Termination shall be proposed within 1 year from the notification of the fact which led to such termination, under penalty of lapsing.

ARTICLE 1003
(Lack of Payment of Rent or Lease)

The right to terminate the agreement due to lack of payment of rent or lease lapses as soon as the lessee, up to the dispute of the action aimed at enforcing that right, pays or deposits the amounts due and the compensation referred to in article 980 .

ARTICLE 1004
(Transfer of the Enjoyment of the Object)

The lessor shall not be entitled to terminate the agreement based on the breach of the provisions set out in sub-paragraphs f) and g) of article 967 if he has acknowledged the beneficiary of the transfer as such or also, in the case of sub-paragraph g) if he was notified by him.

ARTICLE 1005
(Termination of Agreement by the Lessee)

1. The lessee may terminate the agreement, irrespective of the responsibility of the lessor:
a) If, for any reason alien to his or her own person or to that of his or her family members, he is deprived of the enjoyment of the object, even if only temporarily; or
b) If there is or occurs a fault which endangers the life or lives or health of the lessee or his or her family members.
2. The provisions set forth in paragraph 5 of article 982 shall apply to these cases.

SUBSECTION IV
Lapsing

ARTICLE 1006
(Cases of Lapsing)

1. The lease agreement lapses:

a) At the end of the agreement, except in the case of the provisions set out in paragraphs 1 and 2 of article 1022 when it is a rent;
b) Having ascertained the condition to which the parties submitted it, or now certain that it cannot be ascertained, depending on whether it is a termination or suspensive condition;
c) When the right ceases or the legal administrative powers come to an end based on which the agreement was entered into;
d) Due to the death of the lessee or, in the case of a company, the close-down of such company, except when otherwise agreed in writing and the provisions concerning the rent set out in articles 1027, 1030, 1032 and 1040;
e) Due to the loss of the leased object; or
f) In the case of expropriation for public use, unless the expropriation is in line with the subsistence of the agreement.

2. In the case of rent, provisions set out in articles 1021 to 1023 shall be applicable.

ARTICLE 1007
(Exceptions)

Having ascertained any of the situations set out in sub-paragraph c) of paragraph 1 of the above article, the lease agreement shall not lapse, nevertheless:
a) If it is entered into by the user and the property has established itself in his or her hands;
b) If the user sells his or her right or waives it, the agreement shall only lapse under the regular terms of use;
c) If it is entered into by the director spouse;
d) If it is entered into by the head of the household with the consent of all the interested parties or concerns an asset which comes to be granted him at the time of distribution of assets;
e) If the rental agreement is entered into by the promised buyer under the conditions of paragraph 3 of article 964 and the property established itself in his or her hands; or
f) Before 2 years have elapsed since the signing of the rental agreement, if it is entered into by the promised buyer under the conditions of paragraph 3 of article 964 and the offer to purchase has been terminated.

SUBSECTION V
Unilateral Revocation

ARTICLE 1008
(Regime)

1. The lessee may unilaterally revoke the agreement when the improvement works made by the lessor under the circumstances referred to in sub-paragraph b) of article 983 result in a considerable alteration to the mode of use of the object by the lessee or when he does not agree with the increase in rent or lease.
2. The right to revoke set out in the paragraph above shall be exercised by written notification to the lessee with a minimum advance notice of 30 days from the date on which it shall produce its effects.
3. In the case of renting for residential purposes, the tenant shall always be entitled to unilateral revocation in accordance with the provisions set out in article 1028.

SECTION X
Return of the Leased Object

ARTICLE 1009
(Maintenance Duty and Return of the Object)

1. Unless otherwise agreed, the lessee shall be obliged to maintain and return the object in the state in which he received it, with the exception of the wear and tear resulting from cautious use, in accordance with the purposes of the agreement.
2. It shall be assumed that the object was handed over to the lessee in a good state of repair, when there is no document where the parties have described its state at the time it was handed over.

ARTICLE 1010
(Loss or Deterioration of the Object)

The lessee shall be responsible for the loss or deterioration of the object, included in paragraph 1 of the above article, unless they result from a cause which is not imputable to him nor to a third party whom he allowed to use it.

ARTICLE 1011
(Compensation for the Delay in Returning the Object)

1. If the leased object is not returned for any reason as soon as the agreement is terminated, the lessee shall be obliged, by way of compensation, to pay up to the moment of its return the rent or lease that the parties had defined, unless there are grounds for placing the due object on deposit.
2. As soon as the lessee constitutes arrears, the compensation shall be doubled; the sanction set out in article 764 shall not be applied to the arrears of the lessee.
3. The right of the lessor to compensation for any further losses, should there be any, shall be safeguarded.

ARTICLE 1012
(Compensation for Expenses and Listing of Improvements)

1. Without prejudice to the provisions set out in articles 974 to 976 and unless otherwise stated, the lessee is deemed equivalent to the holder in due course for the purpose of compensation and the right to list the improvements that he had made to the leased object.

2. In the case of leasing of animals, the feeding expenses of these shall always be charged to the lessee, unless otherwise stated.

SECTION XI
Renting

SUBSECTION I
General Provisions

ARTICLE 1013
(Applicable Rules and Regulations)

1. The renting of land or town property shall be subject to the provisions in the subsection which especially controls the type of renting in question, to the remaining rules and regulations contained in this subsection and in the following subsection which do not counter them and also to the rules and regulations of preceding sections which do not counter the rules and regulations of this Section.

2. Except:

a) Those rents for special transitory purposes;

b) Those rents subject to special legislation.

3. In terms of the rents referred to in sub-paragraph a) of the preceding paragraph, the provisions of the preceding sections and those included in this Section shall be applicable, with the exception of articles 1022 and 1024 and other rules which go against the special purpose of these rents; the provisions of those Sections and this Section, which do not, in both cases, counter the special regimes of these rents shall also be applicable to those in sub-paragraph b) of the paragraph above.

ARTICLE 1014
(Lease of Commercial Company)

1. The agreement by which one party temporarily and at a cost transfers to a third party, together with the enjoyment of the property, the exploration of the commercial company installed there.

2. The transfer of the use of the building resulting from the lease of the commercial company shall not require the authorisation of the landlord, but should nevertheless be informed within a time limit of 15 days, under penalty of not producing the desired effects.

3. For the purposes of the paragraph above, the provisions set out in paragraph 2 of article 1033 shall, with the necessary adaptations, be applicable.

ARTICLE 1015

(End of Agreement)

1. The tenant may consider the end as the end of his or her residence, the exercise of the commercial company, the exercise of a liberal profession, rural activity or other licit application concerning the building.
2. Unless otherwise stated, the tenant may use the building for the purpose it is intended.
3. If it is an urban building and there is a use licence, the purpose shall be considered that included therein.
4. In the event it is not possible to proceed to the determination of the purpose for which the building is intended, the tenant may use the building for the purpose it was assigned during its previous use or, whenever it is not possible to determine it, for any licit purpose, within the scope of the normal function of objects of the same nature.

ARTICLE 1016

(Form)

1. The rental agreement shall be entered into in writing.
2. Unless otherwise stated in the provisions, the rent shall, despite absence of written deed, recognised in court, by any other means of proof, when it is shown that the absence is imputable to the counterpart in the agreement.

ARTICLE 1017

(Rent)

1. With the exception of that especially established for rural rents in article 1035, the rent shall be monthly and its amount shall be set in a currency which is legal tender.
2. The month shall be counted by the Gregorian calendar or, should the parties agree, by the lunar calendar, when the rents are in harmony with the months of the same calendars, calculating at 30 days for the remaining hypotheses.
3. Without prejudice to the validity of the agreement, the clause by which the payment in a specific currency or which is not legal tender in the Country shall be rendered null and void, irrespective of the type of rent.
4. The amount of the rent set in specific currency or not in the legal tender of the country shall correspond to its equivalent in the national currency, according to the official exchange on the day the agreement is signed or, in its absence, according to the current value that this currency has on the date the agreement is entered into.

SUBSECTION II
Termination of Rent

ARTICLE 1018
(Termination by the Landlord)

The landlord may only terminate the agreement in the event the tenant:

a) Does not pay the rent at the correct time and place nor makes a deposit for such payment, without prejudice to the provisions set out in article 1003.

b) Uses or consents that others use the rented property for a purpose or business different from that or those it is intended for;

c) Repeatedly and systematically uses the property for illegal purposes;

d) Undertakes, without the written consent of the landlord, works which substantially alter its external structure or the internal outlay of its divisions, or practice any acts which cause considerable deterioration to it, also without consent and which cannot be justified under the terms of article 971 or article 975 ;

e) Totally or partially sub-rents or loans the rented property, or transfer his or her contractual position in the case these acts are illicit, invalid due to lack of form or ineffective in relation to the landlord, except under the terms of article 1004;

f) Charges the sub-lessee rent higher than that permitted under the terms of article 994;

g) Ceases to provide the owner or landlord with the personal services, when admitted, which determined the occupation of the building;

h) Where it is a rental agreement for commercial company activity or for a liberal profession, keeps the building closed for over 1 consecutive year, except in the case of force majeure or forced absence by the tenant, which does not last for more than 2 years, or in the case of consent given by the landlord provided at the time or after the agreement; or

i) Where it is a rural rental agreement, harms the productivity of the building, does not secure the good state of repair of the building or causes serious damage to the objects which, albeit not the object of the agreement, exist in the rented property.

ARTICLE 1019
(Expropriation for Public Use)

1. The lapsing of the agreement as a result of expropriation for public use requires the expropriating authority to compensate the tenant, whose position is, for the purpose, considered as a separate cost.

2. The compensation referred to in the above paragraph shall be calculated under the terms of the legislation regulating expropriations for public use.

Article 1020
(Eviction in the Cases of Lapsing)

In any of the cases of lapsing set out in sub-paragraphs b) to d) of paragraph 1 of article 1006, the return of the property can only be requested 90 days upon verification of the fact which has determined the lapsing or, in the case of a rural rental agreement, at the end of the ongoing farming year at the end of the aforementioned time limit.

ARTICLE 1021
(Renewal despite Lapsing)

1. If despite lapsing of the rental agreement, the tenant continues to enjoy the object for 1 year, with no opposition from the landlord, the agreement shall be considered renewed under the terms of the following article.
2. The provisions set out in the paragraph above shall be applicable irrespective of the cause of lapsing of the rent.

ARTICLE 1022
(Termination)

1. Once the rental agreement has come to an end, it shall be renewed for successive periods of time, if none of the parties had terminated it in the time and under the form accorded or set out by law.
2. However, the landlord shall not be entitled to terminate the agreement during its duration or during the duration of the renewals until a period of 2 years has elapsed since the onset of the rental agreement.
3. The time limit for renewal shall be equal to that of the agreement; but, unless otherwise stated, it shall only last for 1 year, if the duration of the agreement is longer.

ARTICLE 1023
(Notice of Termination)

1. Termination shall be notified to the other contracting party in writing with the following minimum advance notice:
a) 180 days, if the agreement has a duration equal to or over 6 years;
b) 90 days, if the agreement has a duration equal to or over 1 year and under 6 years;
c) 30 days, if the agreement has a duration equal to or over 3 months and under 1 year;
d) A third of the duration, when it is under a period of 3 months.
2. The advance notice referred to in the paragraph above concerns the end of the duration of the agreement or the renewal.

SUBSECTION III
General Provisions of Residential Rental Agreements)

ARTICLE 1024
(Furnished Houses)

When the rental agreement of a building for residential purposes is accompanied by the lease of the corresponding furniture to the same lessee, the whole agreement shall be a rental agreement and the rent shall cover the full price of the lease but this price shall describe the part corresponding to the rent of the building and the part corresponding to the lease of the furniture.

ARTICLE 1025
(Persons who may Reside in the Building)

1. In residential rental agreements the following persons, besides the tenant, may reside in the building:

a) All those who share a common residence with him;

b) A maximum of three guests, unless otherwise stated.

2. The persons who are always considered as sharing a common residence with the tenant are his or her relatives or those in direct line or up to the third degree, even if they pay some contribution, and in relation to those persons who, due to the law or legal business which does not directly concern the building, are obliged to be housed and fed.

3. The provisions set out in paragraph 1 above shall be understood subject to that established to the contrary which do not concern the spouse of the tenant, parents of the tenant or parents of the spouse, unmarried heirs of the tenant or unmarried heirs of the spouse, nor the servants of the spouse.

ARTICLE 1026
(Non-transferability of Tenancy)

1. Once the divorce has been applied for , the spouses can agree on which one of them shall hold the tenancy.

2. In the absence of an agreement, the court shall decide, considering the requirements of each one of the spouses, the interests of the children, the de facto circumstances concerning the occupation of the house, the guilt imputed to the tenant in the divorce, the fact the rental agreement was prior or subsequent to the marriage and any other relevant reasons.

3. The transfer of the tenancy right to the spouse of the tenant, resulting from the agreement confirmed by a judge or the registrar of births, marriages and deaths, depending on the case, or by judicial decision shall be as a matter of procedure notified to the landlord.

ARTICLE 1027

(Transfer of Tenancy on Death of Tenant)

1. The tenancy does not lapse on the death of the original tenant or the one who has been granted his or her contractual position, should one of the following members survive:

a) A de facto unseparated spouse or one who, albeit separated, lives in the rented house, on the date of the death;

b) Descendent under the charge of the tenant who lived with him or her in the rented house;

c) Relatives-in-law in the direct line , under the conditions referred to in sub-paragraphs b) and c) of this paragraph; or

d) Ancestor who had lived with him or her in the rented house for over a year;

2. The transfer of the tenancy, established in the paragraph above shall take place in the following order:

a) To the surviving spouse;

b) To the family members or relatives-in-law in the direct line, with the preference being given to the latter, descendants to ancestors and relatives of a closer degree than those of a further degree;

3. The transfer in favour of f family members or relatives-in-law of the tenant can also take place on the death of the surviving spouse when, under the terms of this article, the tenancy right has been transferred to him or her.

4. The beneficiaries of the tenancy transfer right may waive it, informing the landlord in writing of this waiver in a time limit of 60 days from the date of the death of the original tenant.

5. The return by the beneficiaries of the use of the building in the time limit set out in the paragraph above produces the same effect as the waiver.

ARTICLE 1028

(Unilateral Revocation by the Tenant)

1. The tenant shall always enjoy the right to put an end to the rental agreement before the end of the duration of the agreement or its renewals, by way of written notification to the landlord with a minimum advance notice of 90 days from the date on which its effects are produced, without prejudice to any shorter time limit set out in the agreement.

2. Unless otherwise stated, the right to unilateral revocation effected under the terms of the preceding paragraph entitles the landlord, by way of compensation, to one month's rent; the compensation can never exceed 2 months' rent, under penalty of reducing this amount.

SUBSECTION IV

Special Provisions related to Commercial Rental Agreements

ARTICLE 1029

(Concept)

A commercial rent shall be considered the rent of land or town property taken for the purposes directly related to the exercise of commercial company activity.

ARTICLE 1030
(Death of the Tenant)

1. The tenancy does not lapse on the death of the tenant, but the heirs may waive their right to the transfer by informing the landlord in writing of this waiver within a time limit of 60 days.
2. The return by the heirs of the use of the property within the time limit set out in the paragraph above produces the same effect as the waiver.

ARTICLE 1031
(Sale of the Commercial Company)

1. The transfer of the tenancy shall be permitted and shall not depend on the authorisation of the landlord in the event of the sale of the commercial company.
2. Indications of non-verification of the sale of the commercial company shall be considered:

a) When in the building another line of business has begun, having transferred its enjoyment, or when in general terms a different use has been given to it;
b) A transfer which is not accompanied by the transfer of the premises, utensils, goods or other elements which are part of the commercial company.

SUBSECTION V
Specific Provisions of Rental Agreements for the Exercise of Liberal Professions

ARTICLE 1032
(Death of the Tenant)

The provisions set out in article 1030 shall be applicable to the rental agreements for the exercise of liberal professions.

ARTICLE 1033
(Transfer of the Tenancy)

1. It is possible to make an inter vivos transfer, without the permission of the landlord, to persons who continue to carry out the same profession in the rented building.
2. The transfer is only possible if it is entered into by way of a private written instrument with the physical acknowledgement of the signatures of the contracting parties.

SUBSECTION VI
Special Provisions of Rural Rental Agreements

ARTICLE 1034
(Concept)

The lease of land property for agricultural, cattle breeding or forestry purposes, under the conditions of a regular farm, shall be called rural rental agreement.

ARTICLE 1035

(Rent)

1. The rent shall be set in cash or in kind and can be an exact figure or a share of the profits.
2. Only the rent related to the rental agreement with agricultural or cattle breeding purposes can be set in kind.
3. For the purposes of the preceding paragraph, the rent set in kind must relate to products from the farm itself.
4. Unless otherwise stated, the rent in cash shall be paid on a monthly basis; if it is paid in kind, the regularity of harvests shall be taken into account.

ARTICLE 1036

(Reduction in Rent)

1. When, for unforeseeable or fortuitous reasons, geological accidents or plagues of an exceptional nature, the property does not bear produce or its pending produce has been lost in a quantity no less, in its entirety, than half of what it normally produces, the tenant shall be entitled to an equivalent reduction in the rent, which shall not exceed half of the amount.
2. The provisions set out in the paragraph above shall not affect the right to terminate or alter the agreement, under the general terms, of the production capacity of the property, over a long period of time, remains considerably affected by the causes referred to above.
3. The lack of production or loss of produce is however not expectable as it shall be compensated by the value of the production of the year, or of the preceding years in the case of a multi-annual agreement, or by way of compensation that the tenant has received or shall receive in a ratio to that absence or loss.
4. The exception clauses set out in the provisions of paragraphs 1 and 3 above shall be considered invalid.
5. For the exercise of the rights provided in paragraphs 1 and 3, the tenant shall advise the landlord in writing in order for him or her to be able to verify the losses.

ARTICLE 1037

(Extraordinary Services and Costs)

The clause by which the tenant is committed, for any reason, to services which do not revert to the direct benefit of the property or if subject to extraordinary or occasional costs not included in the rent, shall be considered as invalid.

ARTICLE 1038

(Improvements made by the Tenant)

1. The tenant may introduce useful or luxury improvements without the consent of the landlord, unless they affect the substance of the property or its economic purpose.
2. The tenant shall be entitled to withdraw them while maintaining the quality of the property, as well as, in the case of useful improvements, the right to be compensated for them at the end of the agreement under the terms and conditions set out in paragraph 2 of article 1193.

ARTICLE 1039
(Non-renewal of Agreement)

1. The fact that the agreement is not renewed does not exempt the tenant from his or her duty to secure, for the future, the normal productivity of the property.

2. This duty does not include the practice of acts that the tenant cannot immediately profit from; but in this case he is obliged to allow the landlord to take the necessary measures to secure the productivity of the property, without prejudice to the compensation that he is entitled to for losses suffered.

ARTICLE 1040
(Transfer of Tenancy on Divorce or Death)

The provisions set out in articles 1026 and 1027 shall be applicable, with the necessary adaptations, to the rural rental agreement.

CHAPTER V
(Livestock Lease)

ARTICLE 1041
(Concept)

A livestock lease is the agreement whereby one or more persons submit an animal or a certain number of animals to another or others for them to breed, lease and look after, with the purpose of proportionally sharing future profits among themselves.

ARTICLE 1042
(Duration)

Unless otherwise agreed, the duration shall extend to the uses of the land; should there be no customs, any of the contracting parties may at any time terminate the lease.

ARTICLE 1043
(Termination)

The existence of a duration does not prevent the contracting party from terminating the agreement if the other party does not fulfil his or her obligations.

ARTICLE 1044
(Lapsing)

The lease shall lapse on the death of the lessee or on the loss of the animals, and also when the right ceases or the legal managerial powers based on which the agreement was entered into cease to exist, or when there is a termination condition to which the parties have subjected it.

ARTICLE 1045
(Obligations of the Lessee)

The lessee shall be obliged to use the caution required of a diligent lessee in the guarding and treatment of the animals.

ARTICLE 1046
(Use of the Animals)

1. The lessor shall be obliged to secure the use of the animals to the lessee.
2. The lessee who is deprived of his or her rights or disturbed in the exercise of his or her rights may use, even against the lessor, the means afforded to the lessee under the terms of article 1198 and following articles.

ARTICLE 1047
(Risk)

1. Should the animals die, are rendered useless or their value decreased, for reasons not imputable to the lessee, the risk shall be of the responsibility of the lessor.
2. If however some profit can be made from the animals who have died or have been rendered useless, the profit belongs to the lessor up to their value at the time they were delivered.
3. The rules in the preceding paragraphs are legally binding.

ARTICLE 1048
(Subsidiary Regime)

The uses of the land shall, in the absence of agreement, be observed in all that has not been set out in the preceding articles.

CHAPTER VI
Loan for use

ARTICLE 1049
(Concept)

A loan for use is a gratuitous contract whereby one of the parties submits a certain object, mobile or immobile, to the other to be used by him or her and shall be obliged to return it.

ARTICLE 1050
(Loan based on a Temporary Right)

1. If the lender loans the object based on a right of a limited duration the agreement cannot be entered into for a longer period of time and, when this occurs, it shall be reduced to the limit of the duration of that right.
2. The provisions set out in sub-paragraphs a) and b) of article 1007 shall be applicable to the loan constituted by the usufructuary.

ARTICLE 1051
(End of Contract)

In the event the contract and corresponding circumstances do not result in the end for which the loaned object was intended, the borrower may apply it to any licit purposes, within the normal function of objects of the same nature.

ARTICLE 1052
(The Fruits of the Object)

Only by way of express agreement can the borrower make the fruits gathered his or her own.

ARTICLE 1053

(Acts which Prevent or Decrease the Use of the Object)

1. The lender shall not undertake acts which will prevent or restrict the use of the object by the borrower but he shall not be obliged to guarantee him this use.

2. Should he be deprived of his or her rights or disturbed during the exercise of them, he may use, even against the lender, the means afforded to the borrower as set out in articles 1196 and following.

ARTICLE 1054

(Responsibility of the Lender)

The lender shall not be responsible for faults or constraints to the limits of the right nor for the faults of the object, except when he has been expressly made responsible or has acted with wilful misconduct.

ARTICLE 1055

(Obligations of the Borrower)

The borrower shall be responsible for:

a) Keeping and conserving the borrowed thing;

b) Making it available for the lender to examine;

c) Not applying it to an end for which it was not intended;

d) Not to misuse it;

e) Tolerating any improvements that the lender wishes to make on the thing;

f) Not allowing a third party to make use of it, except when the lender so permits;

g) Immediately advising the lender, whenever aware of any faults in the thing or whenever aware of the threat of any danger or whenever third parties assume rights in relation to the thing, when such fact is ignored by the lender;

h) To return the thing when the contract has come to an end.

ARTICLE 1056

(Loss or Deterioration of the Thing)

1. When the loaned thing perishes or deteriorates by chance, the borrower shall be responsible, if it was within his or her powers to have avoided it, even if by way of sacrificing some of his or her own property which is not of a higher value.

2. When however the borrower has applied it for a purpose different to that for which it was intended, or has consented that a third party use it without being authorised to give such permission, he shall be responsible for the loss or deterioration, unless he proves that it would have happened even despite his or her illegal conduct.

3. The thing having been assessed during the duration of the contract, it shall be assumed that the responsibility was in the hands of the borrower, even though he could not have avoided the losses even by sacrificing his or her own property.

ARTICLE 1057
(Return)

1. Should the contracting parties not have agreed on a fixed time limit for the return of the thing, but was loaned for a specific use, the borrower shall return it to the lender as soon as the use ceases, irrespective of the formal notice.
2. Should no time limit have been determined for the return nor for the use of the thing, the borrower shall be obliged to return it as soon as he or she is requested to.
3. The provisions set out in article 1009 shall be applicable to the maintenance and return of the loaned thing.

ARTICLE 1058
(Improvements)

1. The borrower shall be rendered equivalent to dishonest possessor in the case of improvements.
2. In the case of the lending of animals, the costs involved in feeding them, unless otherwise stated, shall be covered by the borrower.

ARTICLE 1059
(Joint Responsibility of the Borrowers)

In the case of two or more borrowers, they shall be singly and jointly responsible for the obligations.

ARTICLE 1060
(Termination)

Notwithstanding the existence of a time limit, the lender may terminate the contract in the event of justa causa.

ARTICLE 1061
(Lapsing)

The contract shall lapses on the death of the borrower.

CHAPTER VII
Loan Agreement

ARTICLE 1062
(Concept)

A loan agreement is an agreement whereby one of the parties loans money or other fungible goods to the other, the latter being obliged to return the same amount of the same kind and quality.

ARTICLE 1063

(Form)

1. The loan agreement of a value equal or higher than 25,000.00 US dollars shall only be valid if entered into by public deed.

2. The loan contract of a value equal to or higher than 10,000.00 US dollars and lower than 25,000.00 US dollars shall only be valid if entered into by authenticated private document.

3. Where the value of the contract is lower tha 10,000.00 US dollars, a private document signed by the borrower shall suffice

ARTICLE 1064

(Property of the loaned objects)

The loaned objects shall become the property of the borrower upon delivery.

ARTICLE 1065

(Gratuitous or pecuniary loan agreement)

1. The parties may agree on the payment of interest as retribution of the loan agreement; this is presumed to be pecuniary in the case of doubt.
2. Even if the loan agreement does not concern money, in the case of interest the provisions set out in article 493 shall be applicable and should the borrower be in arrears, the provisions set out in article 740 shall apply.

ARTICLE 1066

(Usury)

1. A loan agreement is considered usurious when yearly interest is stipulated which exceeds the legal interest, plus 3% or 5%, depending on whether there is or not a security for guarantee.
2. The penal clause is also considered usurious when it fixes due compensation, resulting from the lack of recovery of the loan, in relation to the time of arrears, of 7% or 9% above the legal interest, depending on whether there is or not a security for guarantee.
3. If the interest rate stipulated or the amount of the compensation exceeds the maximum set out in the preceding paragraphs, it shall be reduced to these maximum levels, even if the will of the contracting parties is to the contrary.
4. The respect of the maximum limits referred to in this article does not preclude the applicability of articles 273 to 275.

ARTICLE 1067

(Duration of the Pecuniary Loan)

The duration of the pecuniary loan shall be set in favour of both parties, but the borrower may anticipate payment, as long as he pays the interest in full.

ARTICLE 1068
(Non-establishment of Duration)

1. When no duration is established, the obligation of the borrower, in the case of a gratuitous loan, shall only fall due thirty days upon the requirement of its fulfilment.
2. In the case the loan is pecuniary and no duration has been established, any of the parties may put an end to the agreement, as long as it is announced with a minimum advance notice of thirty days.
3. In the event of a gratuitous or pecuniary loan agreement of grain or other rural products on behalf of a farmer, it shall be considered as done up to the following harvest of similar products.
4. The doctrine underlying the paragraph above shall be applicable to the borrowers who, not being farmers themselves, gather from the rent of their own lands fruits similar to those received from the loan.

ARTICLE 1069
(Impossibility to Return)

Should the loan fall on another thing than money and it becomes impossible or extremely difficult to return it for reasons not imputable to the borrower, he shall pay the value that the thing has at the time and place the obligation falls due.

ARTICLE 1070
(Termination of the Agreement)

The lender may terminate the agreement if the borrower does not pay the interest when it falls due.

ARTICLE 1071
(Responsibility of the Lender)

The provisions set out in article 1054 shall be applicable to the responsibility of the lender, in the case of a gratuitous loan.

CHAPTER VIII
Employment Contract

ARTICLE 1072
(Concept)

An employment contract is a contract whereby a person undertakes, by way of payment, to provide his or her intellectual or manual activity to another person, under the authority and guidance of the latter.

ARTICLE 1073
(Regime)

Employment contracts are governed by special legislation.

CHAPTER IX
Provision of Services

ARTICLE 1074
(Concept)

Contracts for the provision of services are those whereby one of the parties undertakes to provide the other party with a given result from his or her intellectual or manual work, but not necessarily by way of payment.

ARTICLE 1075
(Contract Modalities)

Management, deposit and contract, governed by the following chapters, are modalities of the contract for the provision of services.

ARTICLE 1076
(Regime)

The provisions on the management shall be extended, with the necessary adaptations, to the modalities of the contract for the provision of services that are not specially governed by law.

CHAPTER X
Mandate

SECTION I
General Provisions

ARTICLE 1077
(Concept)

A mandate is an agreement whereby one of the parties undertakes to practice one or more legal acts on behalf of another party.

ARTICLE 1078
(Gratuitous or Pecuniary Mandate Agreement)

1. The mandate agreement shall assume to be gratuitous, except in the event its object concerns acts that the agent practices professionally.
2. In the event the mandate is pecuniary, the portion of the payment, no adjustment made between the parties, shall be determined by professional tariffs; in their absence, by custom and in the absence of either, on an equitable basis.

ARTICLE 1079
(Extension of the Mandate)

1. The general mandate shall only include regular administrative acts.
2. The special mandate shall cover, besides the acts referred to therein, all other acts required for its execution.

ARTICLE 1080
(Plurality of Mandates)
Should two or more persons be instructed to practice the same legal acts, there will be as many mandate agreements as persons appointed, except in the case where the principal declares that they should act jointly.

SECTION II
Rights and Obligations of the Agent

ARTICLE 1081
(Obligations of the Agent)
The agent shall be obliged to:
a) Practice the acts included in the mandate and in accordance with the instructions of the principal;
b) Provide the information asked of him concerning the state of the management;
c) Readily inform the principal on the execution of the mandate or, if it has not been executed, on the reason why he proceeded this way;
d) Render the accounts at the end of the mandate or when the principal so requests;
e) Submit to the principal what he received during the execution of the mandate or in its undertaking, if he did not spend it during the regular fulfilment of the agreement.

ARTICLE 1082
(Non-implementation of the Mandate or non-compliance with the Instructions)
The agent can cease to implement the mandate or ignore the instructions received, when it would be reasonable to assume that the principal would approve of his or her behaviour if he had been aware of certain circumstances that it was not possible to inform him of in due time.

ARTICLE 1083
(Tacit Approval of the Implementation or Non-implementation of the Mandate)
Once the implementation or non-implementation of the mandate has been announced, silence on the part of the principal for a time longer than that required to give his or her opinion, according to normal custom or in their absence, in accordance with the nature of the matter, means the approval of the conduct of the agent, even though this may have exceeded the limits of his or her mandate or have ignored the instructions of the principal, unless otherwise agreed.

ARTICLE 1084
(Interest Due by the Agent)
The agent shall pay the principal the legal interest corresponding to the amounts he received from him or her or on his or her account, from the moment in which he should submit them to him, or refer them to him or apply them according to his or her instructions.

ARTICLE 1085
(Replacement and Assistants of the Agent)
The agent may, during the implementation of his or her mandate, have himself or herself replaced by another person or use assistants, under the same terms that the representative may do so.

ARTICLE 1086
(Plurality of Agents)
In the event there are two or more agents with the duty to act jointly, each one shall be responsible for his or her own acts, should no other regime have been accorded.

SECTION III
Obligations of the Principal

ARTICLE 1087
(Specifications)
The principal shall be obliged to:
a) Supply the agent with the means required for the implementation of the mandate, if no other agreement has been entered into;
b) Pay him the necessary amount and make provision for it according to custom;
c) Reimburse the agent for the expenses incurred which he, with grounds, has considered indispensable, with the legal interest since they were effected;
d) Compensate him for the loss suffered as a result of his or her mandate, even if the principal proceeded innocently.

ARTICLE 1088
(Suspension of Implementation of the mandate)
The agent may abstain from the implementing the mandate as long as the principal is in arrears as to the obligation referred to in sub-paragraph a) of the preceding article.

ARTICLE 1089
(Plurality of Principals)
In the event there are two or more principals, their obligations vis-à-vis the agent shall be joint, in the event the mandate has been assigned for a matter of common interest.

SECTION IV
Revocation and Lapsing of the Mandate

SUBSECTION I
Revocation

ARTICLE 1090
(Revocability of the Mandate)
1. The mandate shall be freely irrevocable by any of the parts, notwithstanding agreement to the contrary or waiver of the revocation right.
2. Should however the mandate have also been assigned in the interest of the agent or a third party, it cannot be revoked by the principal without the agreement of the interested party, except in the event of justa causa.

ARTICLE 1091
(Tacit Revocation)
The appointment of another person by the principal to carry out the same acts implies revocation of the mandate, but this effect shall only be produced once the agent has been informed.

ARTICLE 1092
(Obligation to Compensate)
The party which revokes the agreement shall compensate the other for the loss suffered:
a) If this has been agreed;
b) If irrevocability has been stipulated or the revocation right has been waived;
c) If the revocation comes from the principal and concerns a pecuniary mandate agreement, when the mandate has been assigned for a certain time or for a certain matter, or when the principal revokes it without the appropriate minimum notice;
d) If the revocation comes from the agent and appropriate minimum notice has not been given.

ARTICLE 1093
(Collective Mandate)
Should the mandate be assigned to several persons and for a matter of common interest, revocation shall only produce effects if it is undertaken by all the principals.

SUBSECTION II
Lapsing

ARTICLE 1094
(Cases of Lapsing)
The mandate shall elapse:
a) On the death or interdiction of the principal or the agent;
b) By incapacity of the principal, if the object of the mandate are acts which cannot be undertaken without the intervention of the guardian.

ARTICLE 1095
(Death, Interdiction or Incapacity of the Principal)
The mandate shall not lapse due to the death, interdiction or incapacity of the principal, when it has also been conferred for a matter of common interest or to a third party; in other cases, it shall only lapse when the agent has been advised of such lapsing or when the lapsing cannot result in losses for the principal or his or her heirs.

ARTICLE 1096
(Death, Interdiction or Natural Incapacity of the Agent)
1. In the event the mandate lapses due to the death or interdiction of the agent, his or her heirs shall advise the principal and take the necessary measures until he is in a position to take these measures himself or herself.
2. The same obligation falls on the persons who share the same roof as the agent, in the case of natural incapacity on his or her part.

ARTICLE 1097
(Plurality of Agents)
In the event there are several agents with the obligation to act jointly, the mandate shall elapse for all of them, albeit the cause of the lapsing concerns only one of them, unless otherwise agreed.

SECTION V
Mandate with Powers of Attorney

ARTICLE 1098
(Agent with Powers of Attorney)
1. If the agent is the representative, having received powers to act on behalf of the principal, the provisions set out in article 249 and following articles shall also be applicable.
2. The agent who has been granted powers of attorney shall act not only on his or her own behalf, but on behalf of the principal, unless otherwise established.

ARTICLE 1099
(Revocation or Waiver of Powers of Attorney)
The revocation and the waiver of the powers of attorney imply revocation of the mandate.

SECTION VI
(Mandate without Powers of Attorney)

ARTICLE 1100
(Agent who Acts on his or her own Behalf)
The agent, if acting on his or her own behalf, acquires the rights and assumes the obligations resulting from the acts he enters into, albeit the mandate is known by third parties who participate in the acts or are their addressees.

ARTICLE 1101
(Rights acquired during the Mandate)
1. The agent shall be obliged to transfer to the principal the rights acquired whilst implementing the mandate.
2. As to credits, the principal may replace the agent during the exercise of the corresponding rights.

ARTICLE 1102
(Obligations entered into during the Mandate)
The principal shall assume, in any of the ways indicated in paragraph 1 of article 530, the obligations entered into by the agent during his or her mandate; if he cannot do so, he shall provide the agent with the necessary means to fulfil them or reimburse him for any expenses incurred in this task.

ARTICLE 1103
(Responsibility of the Agent)
Unless otherwise stated, the agent shall not be responsible for the non-fulfilment of the obligations entered into by the persons who have been hired, unless at the time the agreement is entered into, he knew or should have known about their insolvency.

ARTICLE 1104
(Responsibility of the Goods Acquired by the Agent)
The goods that the agent has acquired during his or her mandate and which should be transferred to the principal under the terms of paragraph 1 of article 1101 shall not be responsible for the obligations of the former, as long as the mandate consists of a document prior to the date of the pledge of these goods and the acquisition registration has not been carried out, when it is subject to registration.

CHAPTER XI
Deposit

SECTION I
General Provisions

ARTICLE 1105
(Concept)
The deposit contract is one whereby one of the parties supplies to the other a thing, item or real estate for the latter to guard and to return when required.

ARTICLE 1106
(Gratuitous deposit or for good and valuable consideration)
The terms of article 1078 are applicable to the deposit.

SECTION II
(Rights and obligations of the usufructuary)

ARTICLE 1107
(Obligations of the usufructuary)
The custodian is obligated:
a) To guard the thing deposited;
b) To advise the depositor immediately when he or she learns that some danger threatens the thing or the third party arrogated rights in relation to it, given that the fact is unknown to the depositor;
c) To return the thing with its fruits.

ARTICLE 1108

(Hindrance to holding or trespass of the thing)

1. If the custodian is unable to hold the thing for a reason that is not imputable to him or her, the custodian is relieved of his or her obligations to guard and return it; however he or she shall t immediately make this inability known to the depositor.

2. Irrespective of the obligation imposed in the previous paragraph, the custodian that is prevented from holding the thing or hindered in the exercise of his or her rights may use, even against the depositor, the means granted to the holder under article 1196 and following articles.

ARTICLE 1109

(Use of the thing and sub-deposit)

The custodian does not have the right to use the thing deposited nor to deposit it with another party, if the depositor has not so authorised.

ARTICLE 1110

(Guarding the thing)

The custodian may guard the thing in a way other than agreed, when he or she has reason to suppose that the depositor would approve the alteration, if he or she were aware of the circumstances that supported it; however he or she shall notify the change as soon as communication is possible.

ARTICLE 1111

(Sealed deposit)

1. If the deposit relates to a thing sealed in any container or receptacle, the custodian must hold it and return it in the same condition, without breaking the seal.
2. In the event that the container or receptacle is tampered with, it is presumed that the tampering was the fault of the custodian; and, if the latter does not dispute the resumption, the description given by the depositor shall be presumed to be accurate.

ARTICLE 1112

(Restitution of the thing)

1. The custodian may not refuse restitution to the depositor on the basis that it is not the owner of the thing nor that there is any other right over it.
2. If, however, a third party proposes a claim against the custodian, the latter, while such claim had not been definitively judged may only be released from the obligation to return the thing consigned in deposit.
3. If the custodian becomes aware that the thing is the proceeds of crime, he or she shall immediately notify it to the person from whom it was taken, and if this is unknown then to the Office of the Public Prosecutor; and it may only return the thing to the depositor if within fifteen days, counting from the action, it has not been claimed by its rightful holder.

ARTICLE 1113
(Third party interest in the deposit)
If the thing was also deposited in the interests of a third party who has communicated to the custodian such an interest, the custodian may not be exonerated from returning the thing to the depositor without the consent of the third party.

ARTICLE 1114
(Period of restitution)
The period of restitution of the thing is established in favour of the depositor; however, in the case of consideration for the deposit, the depositor shall settle in full the restitution to the custodian, even when the former demands return of the thing before completion of the stipulated period, except where there is a justa causa.

ARTICLE 1115
(Place of restitution)
When not defined between the parties, the custodian must return the property in the place where, according to the contract, it was guarded.

ARTICLE 1116
(Restitution expenses)
The restitution expenses are the responsibility of the depositor.

ARTICLE 1117
(Responsibility in the case of a sub-deposit)
If the custodian, duly authorised, in turn entrusts the deposited thing to a third party, he or she is responsible for any fault in the selection of this person.

ARTICLE 1118
(Assistants)
The custodian may use assistance in the fulfilment of his or her obligations, except where the opposite results from the content or purpose of the deposit.

SECTION III
Obligations of the depositor

ARTICLE 1119
(Remuneration)
The depositor is obligated:
a) To pay to the custodian the due retribution;
b) To reimburse him or her for the expenses that he or she incurred where reasonably considered indispensable for conservation of the thing, with the legal interest since such were incurred;
c) To compensate him or her for the damage suffered as a consequence of the deposit, except where the depositor has acted blamelessly.

ARTICLE 1120
(Remuneration to the custodian)

1. The remuneration to the custodian, when no other agreement has been entered into, must be paid at the end of the deposit; however, if installments periods have been established, it will be paid at the end of each one of them.
2. If the deposit ends before the agreed term, the custodian may demand a part proportional to the elapsed time, without prejudice to the provision of article 1114.

ARTICLE 1121
(Restitution of the thing)

Where no period has been agreed to return the thing, the custodian has the right to return it at any time; if, however, a period has been agreed, he or she may only do so before the end of such period with a justa causa.

SECTION IV
Deposit of a disputed thing

ARTICLE 1122
(Concept)

If two or more people dispute the ownership of a thing or any right pertaining to it, it may, by means of a deposit, be delivered to a third party to keep it; once the dispute has been settled, it shall be returned to the person to whom it is deemed to belong.

ARTICLE 1123
(Consideration for the deposit)

The deposit of the disputed thing is presumed to be for a consideration.

ARTICLE 1124
(Management of the thing)

Except where agreed to the contrary, the custodian is responsible for managing the thing.

SECTION V
Irregular deposit

ARTICLE 1125
(Concept)

The deposit that consists of fungible things is said to be irregular.

ARTICLE 1126
(Regime)

The norms related to mutual contracts are considered to be applicable to the irregular deposit, to the extent possible.

CHAPTER XII
Contracting

SECTION I
General Conditions

ARTICLE 1127
(Concept)

Contracting is the contract under which one of the parties is obligated to carry out certain work for the other, for a determined price.

ARTICLE 1128
(Execution of the work)

The contractor must carry out the work in accordance with the terms agreed, and without faults that destroy or reduce the value of the work or its suitability for normal use or the use set out in the contract.

ARTICLE 1129
(Inspection)

1. The owner of the work may inspect, at his or her own expense, its execution, where this does not disturb the normal running of the contracting.
2. Inspection by the owner of the work, or by his or her agent, does not prevent him or her from, upon completion of the contract, making use of his or her rights against the contractor where there are clear faults or poor execution of the contract, except if he or she has given his or her express assent to the work executed.

ARTICLE 1130
(Supply of materials and tools)

1. The materials and tools needed to carry out the work must be supplied by the contractor, in the absence of any agreement or usage to the contrary.
2. When not defined in the contract, the materials must be appropriate for the characteristics of the work and may not be of a lower than average standard.

ARTICLE 1131
(Determination and payment of the price)

1. The provisions of article 817 are applicable to the determination of the price, with the necessary adaptations.
2. The price shall be paid, where there is no clause, custom or usage to the contrary, in the act of accepting the work.

ARTICLE 1132
(Ownership of the work)

1. In the case of a contract to construct a chattel with materials supplied, wholly or mainly, by the contractor, acceptance of the thing implies transfer of ownership to the owner of the work; if the materials were supplied by the latter, he or she continues to own them, and takes ownership of the thing once it is completed.

2. In the case of a contract to construct real estate, where the ground or surface pertains to the owner of the work, he or she owns the thing, even if the contractor supplies the materials; these are considered to be acquired by the owner of the work to the extent that they are incorporated in the site.

ARTICLE 1133
(Sub-contracting)

1. Subcontracting is a contract whereby a third party undertakes before the contractor to carry out the work, or part thereof, to which he or she is bound.

2. The provisions of article 255, with the necessary adaptations, are applicable to subcontracting and to the use of assistance in the execution of the contract.

SECTION II
Alterations and new works

ARTICLE 1134
(Alterations at the initiative of the contractor)

1. The contractor may not, without authorisation from the owner of the work, make alterations to the agreed plan.

2. Work altered without authorisation is deemed to be defective; however, should the owner wish to accept it as executed, he or she shall not be obligated to pay any supplementary price or compensation for unfair gain.

3. If a total sum has been determined for the work and authorisation has not been given in writing to establish an increase in price, the contractor may only demand compensation from the owner of the work corresponding to the latter's gain.

ARTICLE 1135
(Necessary alterations)

1. If, for the execution of the work, third party rights or technical rules make it necessary to make alterations to the agreed plan, and the parties cannot reach an agreement, the tribunal is responsible for determining these alterations and establishing the corresponding modifications regarding the price and period of execution.

2. If, as a consequence of the alterations, the price would rise by more than twenty per cent, the contractor may cancel the contract and request fair compensation.

ARTICLE 1136

(Alterations required by the owner of the work)

1. The owner of the work may demand that alterations be made to the agreed plan, where the value does not exceed a fifth of the stipulated price and there is no modification to the nature of the work.
2. The contractor has the right to an increase in the stipulated price, corresponding to the increase in expense and labour, and to an extension to the period for execution of the work.
3. If the alterations introduced result in a reduction in cost or labour, the contractor has the right to the stipulated price, with a deduction of the amount that, as a consequence of the alterations, he or she saves in expenses or acquires through other applications of his or her activity.

ARTICLE 1137

(Alterations after delivery and new works)

1. The provisions of the preceding articles are not applicable to alterations made after delivery of the work, nor to works that are autonomous in relation to those defined in the contract.
2. The owner of the work has the right to refuse the alterations and works referred to in the previous paragraph, if they were not authorised; he or she may, in addition, demand elimination thereof, where possible, and, in any case, compensation for the damage in general terms.

SECTION III

Defects in the work

ARTICLE 1138

(Verification of the work)

1. The owner of the work must verify, before accepting it, that it is in the agreed condition and is free from faults.
2. The verification must take place within the usual period or, in the absence of such, within a reasonable period of the contractor making it available for the owner of the work to do so.
3. Either of the parties has the right to demand that the verification be carried out, at his or her expense, by experts.
4. The results of the verification must be communicated to the contractor.
5. Lack of verification or communication implies acceptance of the work.

ARTICLE 1139

(Cases where the contractor is not responsible)

1. The contractor is not responsible for defects in the work if the owner accepted it unreservedly, with knowledge of them.
2. Visible defects are presumed to be known, whether or not the work has been verified.

ARTICLE 1140

(Claims against defects)

1. The owner of the work must, under penalty of losing the rights conferred in the following articles, claim against the contractor for defects in the work within thirty days of their discovery.
2. A claim equates to the recognition, by the contractor, of the existence of the defect.

ARTICLE 1141
(Elimination of defects)
1. If the defects can be resolved, the owner of the work has the right to demand that the contractor eliminate them; if they are not eliminated, the owner may demand new construction.
2. The rights conferred in the previous paragraph shall cease if the expenses are disproportionate in relation to the purpose.

ARTICLE 1142
(Reduction in price and termination of the contract)
1. Where the defects are not eliminated or new construction does not take place, the owner may demand a reduction in the price or the termination of the contract, if the defects make the work unsuitable for its intended purpose.
2. The price reduction is carried out under the terms of article 818.

ARTICLE 1143
(Compensation)
The exercise of the rights conferred in the preceding articles does not exclude the right to be compensated in general terms.

ARTICLE 1144
(Forfeiture)
1. The rights to elimination of the defects, reduction in price, termination of the contract and compensation shall expire if not exercised with one year counting from the refusal to accept the work or on its unreserved acceptance, without prejudice to the time limit set out in article 1140.
2. If the defects were unknown to the owner of the work and he or she has accepted the work, this period commences with the claim; in no case, however, may these rights be exercised more than two years after the delivery of the work.

ARTICLE 1145
(Real estate intended for long-term use)
1. Without prejudice to the provisions set out in the articles 1139 and following articles, if the objective of the contract is the construction, modification or repair of buildings or other real estate intended by its nature for long-term use and, within five years counting from delivery, or in the course of the agreed guarantee period, the work, due to a fault in the ground or the construction, modification or repair, or due to errors in the execution of the works, is totally or partially destroyed, or presents defects, the contractor is responsible for the damage suffered by the owner of the work or any acquiring third party.
2. The claim, in any of the cases, must be made within the period of one year and the compensation must be requested in the year following the claim.
3. The periods set out in the previous paragraph are equally applicable to the right to elimination of the defects set out in article 1141.
4. The provisions of the previous paragraphs are applicable to a seller of real estate that has been built, modified or repaired.

ARTICLE 1146
(Responsibility of subcontractors)
The contractor's right of regress against subcontractors in regard to the rights conferred in the previous articles lapses if no claim is made within the thirty days following delivery.

SECTION IV
Impossibility of fulfilment and risk of loss or deterioration of the work
ARTICLE 1147
(Impossibility of executing the work)
If execution of the work becomes impossible for a reason that is not imputable to any of the parties, the provisions of article 724 are applicable; however, if execution has started, the owner of the work is obligated to compensate the contractor for the work carried out and the expenses incurred.

ARTICLE 1148
(Risk)
1. If, for a reason that is not imputable to any of the parties, the thing perishes or deteriorates, the risk is borne by the holder.
2. If, however, the owner of the work is late in regard to verification or acceptance of the thing, he or she then bears the risk.

SECTION V
Termination of the contract

ARTICLE 1149
(Withdrawal by the owner of the work)
The owner of the work may withdraw from the contract any time, even where it has begun, providing that it indemnifies the contractor for his or her expenses and labour and the profit he or she could have made from the work.
ARTICLE 1150
(Death or incapacity of the parties)
1. The construction contract is not terminated on the death of the owner of the work, nor by the death or incapacity of the contractor, unless, in the latter case, the personal qualities of the latter have been taken into account when entering into the contract.
2. The contract is terminated on the death or incapacity of the contractor, if execution of the work is considered to be impossible for a reason not imputable to any of the parties.

CHAPTER XIII
Rent in perpetuity

ARTICLE 1151
(Concept)
The rent-in-perpetuity contract is that in which one person assigns to another a certain sum of money, or any other thing, chattel or real estate, or a right, and the latter is obligated, with no time limit, to pay, as a rental, a determined amount of money or other fungible thing.

ARTICLE 1152
(Form)
The rent in perpetuity is only valid if constituted by a public deed.

ARTICLE 1153
(Surety)
The debtor of the rental is obligated to secure the fulfilment of the obligation.

ARTICLE 1154
(Exclusion of the right of addition)
Rent in perpetuity confers no right of addition between the beneficiaries.

ARTICLE 1155
(Termination of the contract)
The beneficiary of the rental is permitted to terminate the contract when the debtor is in default on the installments corresponding to two years, or if any of the cases set out in article 714 occurs.

ARTICLE 1156
(Redemption)
1. The debtor may, at all times, redeem the rental, by means of the payment of the amount in money that represents capitalisation of the same at the legal rate of interest.
2. The right of redemption may not be waived, however it may be stipulated that it may not be exercised during the lifetime of the first beneficiary or within a certain period no longer than twenty years.

ARTICLE 1157
(Interest)
Rent in perpetuity is subject to legal provisions regarding interest, where this is compatible with its nature and with the precepts of the preceding articles.

CHAPTER XIV
Lifelong rent

ARTICLE 1158
(Concept)
The lifelong rental contract is that in which one person assigns to another a certain sum of money, or any other thing, chattel or real estate, or a right, and the latter is obligated to pay a certain amount in money or another fungible thing during the lifetime of the assignor or of a third party.

ARTICLE 1159
(Form)
Without prejudice to the application of the special rules in regard to assigning the thing or right, a lifetime rental must be constituted in a written document, with a public deed necessary if the assigned thing or right has a value equal to or greater than 2500 US dollars.

ARTICLE 1160
(Duration of the rental)
The rental may be agreed for one or two lives.

ARTICLE 1161
(Right to accrue)
When not specified in the contract, where there are two or more beneficiaries of the rental, and one of them dies, his or her part is added to that of the others.

ARTICLE 1162
(Termination of the contract)
The beneficiary of the lifetime rental is entitled to terminate the contract under the same terms in which termination of rent in perpetuity is permitted to the respective beneficiary.

ARTICLE 1163
(Redemption)
The debtor may only redeem the rental, with reimbursement of what was received and loss of the installments already made, if such has been agreed.

ARTICLE 1164
(Advance installments)
If the installments are made in advance, the last is due in full, even where the beneficiary dies before the respective period is completed.

CHAPTER XV
Gambling and betting
ARTICLE 1165
(Nullity of the contract)
Gambling and betting are not valid contracts nor do they create civil obligations; however, when legal, they are a source of natural obligations, except if they include any other reason to render them null or void, in the general terms of law, or if there is fraud by the creditor in their execution.

ARTICLE 1166
(Sporting competitions)
An exception is made to the terms of the previous article for sporting competitions, in regard to those people that take part therein.

ARTICLE 1167
(Special legislation)
Exception is made to special legislation in regard to the substance of this chapter.

CHAPTER XVI
Transaction
ARTICLE 1168
(Concept)

1. The transaction contract is a contract whereby the parties pre-empt or conclude litigation by means of reciprocal concessions.
2. The concessions may involve the constitution, modification or termination of various parts of the disputed rights.

ARTICLE 1169
(Matters that cannot be transacted)

The parties may neither transact rights of which they are not allowed to dispose of, nor do business relating to legal transactions which are not permitted by law.

ARTICLE 1170
(Form)

A preventive or extrajudicial transaction shall consist of a public deed when it might produce any effect for which the deed is required, and shall consist of a written document in the remaining cases.

BOOK III
LAW ON THINGS

TITLE I
ON POSSESSION

CHAPTER I
General Provisions

ARTICLE 1171
(Concept)

Possession is the power that is manifested when an individual acts in such a way as to exercise the right of ownership or some other right in rem.

ARTICLE 1172
(Exercise of possession through an intermediary)

1. Possession may be exercised both personally and through someone else.
2. If there is doubt, possession is presumed to lie with the individual who exercises de facto power, without affecting the provisions of paragraph 2 in Article 1177.

ARTICLE 1173

(Simple holding rights)

The following shall be considered holders or precarious possessors:

a) Those who exercise de facto powers without the intention of acting as beneficiaries of the right;

b) Those who simply take advantage of the tolerance of the holder of the right;

c) The representatives or agents of the possessor, and, in general, all those who have ownership in the name of another individual.

ARTICLE 1174

(Presumptions of ownership)

1. If the current possessor held ownership at some more remote point in time, it is presumed that he also held ownership during the intermediate period.

2. Present ownership does not presume previous ownership, except when it is deeded; in this case, it is presumed that there has been ownership since the date of the deed.

ARTICLE 1175

(Succession of ownership)

In the case of the death of the possessor, the ownership continues with his or her successors from the moment of death, irrespective of the material acquisition of the thing.

ARTICLE 1176

(Accession to ownership)

1. Anyone who has come into possession of property owned by another individual through any document of succession due to death may add the predecessor's possession to his or her own.

2. If, however, the possession of the predecessor is of a different nature than the possession of the successor, accession shall only be within the limits of the possession of lesser extent.

ARTICLE 1177

(Conservation of possession)

1. Possession is maintained for so long as the activity corresponding to the exercise of the right lasts, or the possibility of its continuation lasts.

2. It is presumed that the possession continues in the name of the individual with whom it began.

CHAPTER II

Characteristics of possession

ARTICLE 1178

(Types of possession)

Possession can be deeded or undeeded, of good or bad faith, peaceful or violent, public or secret.

ARTICLE 1179
(Deeded possession)

1. Possession is regarded as deeded if it is based upon any legitimate mode of acquisition, irrespective of, whether it is of the right of the transferor or of the substantial validity of the legal transaction.
2. The deed is not presumed; its existence should be proven by the individual who invokes it.

ARTICLE 1180
(Good faith possession)

1. Possession is regarded as being in good faith if the possessor, upon acquisition, did not know that the rights of another individual had been violated.
2. Deeded possession is presumed to be of good faith, and undeeded possession, of bad faith.
3. Possession acquired through violence is always regarded as being of bad faith, even if deeded.

ARTICLE 1181
(Peaceful possession)

1. Peaceful possession is possession acquired without violence.
2. Possession is regarded as violent when, in order to obtain it, the possessor used physical coercion, or moral coercion as defined in terms of Article 246.

ARTICLE 1182
(Public possession)

Public possession is that which is exercised in such a way that it can be recognised by interested parties.

CHAPTER III
Acquisition and loss of possession

ARTICLE 1183
(Acquisition of possession)

Possession is acquired:

a) By the reiterated practice, made public, of material actions relating to the exercise of the right;
b) By the material or symbolic tradition of the thing, effectuated by the prior possessor;
c) By a covenant of possession;
d) By transfer of the title of possession.

ARTICLE 1184
(Covenant of possession)
1. If the holder of the right in rem, who is in possession of the thing, transfers that right to another individual, the possession continues to be regarded as having been transferred to the acquiring party even if, for any reason, the holder of the right in rem continues to hold the thing.
2. If the holder of the thing on the date of the action of transferring the right is a third party, the possession continues to be regarded as having been transferred, even if the thing continues to be held by the holder of the thing.

ARTICLE 1185
(Transfer of the certificate of possession)
The transfer of the title of possession may take place through opposition on the part of the holder of the right against the individual in whose name the thing was possessed, or through a third party capable of transferring such possession.

ARTICLE 1186
(Capacity for acquiring possession)
The acquisition of possession can be made by anyone who can exercise reason, and even those who cannot, with regard to things subject to occupation.

ARTICLE 1187
(Loss of possession)
1. The possessor loses possession:
a) Through abandonment;
b) Through loss or material destruction of the thing, or through the thing's having been placed outside of the commercial realm;
c) Through conveyance;
d) Through possession by another, even against the will of the previous possessor, if the new possession has lasted for more than one year.
2. The new possession by someone is recognised from its beginning if it was made publicly, or from the time it became known by the dispossessed if taken in secret; having been acquired by violence, only if recognised at the point in time that the violence ceased.

CHAPTER IV
Effects of possession

ARTICLE 1188
(Presumption of holding the right)
1. The possessor enjoys the presumption that he holds the right, unless there exists, in the name of some other individual, a presumption based on a previous registration prior to the initiation of the possession.
2. If there is a conflict of legal presumptions based upon registration, the priority of one or the other presumption will be determined in accordance with the respective legislation.

ARTICLE 1189

(Loss or deterioration of the thing)

The good faith possessor will be responsible for the loss or deterioration of the thing only if he has been culpable.

ARTICLE 1190

(Fruits of good faith possession)

1. The good faith possessor is the holder of the natural fruits received until the point in time that his or her possession negatively affects the rights of another individual, and the civil fruits corresponding to the same period.
2. If at the time that good faith ends there are natural fruits pending, the holder is obligated to compensate the possessor for the expenses relating to the crop, seeds or raw materials, and, in general, all expenses relating to production, so long as the expenses are not greater than the value of the fruits that come to be harvested.
3. If the possessor has transferred fruits prior to harvest, and prior to the cessation of good faith, the transfer holds, but the product of the harvest belongs to the holder of the right, with the deduction of the compensation referred to in the above paragraph.

ARTICLE 1191

(Fruits of bad faith possession)

The bad faith possessor shall return the fruits that the thing has produced up to the time of expiration of the possession, and, in addition, be responsible for the value of any fruits that a diligent owner might have obtained.

ARTICLE 1192

(Charges)

The charges relating to the thing are paid by the holder of the right and by the possessor, as a function of the rights of each of them relating to the fruits during the time period in which the charges arise.

ARTICLE 1193

(Necessary and useful improvements)

1. Both the good faith possessor and the bad faith possessor have the right to be compensated for any necessary improvements that have been made, as well as for useful improvements made to the thing, so long as this can be done without any detriment to the thing.
2. If, in order to avoid detriment to the thing, no survey of the improvements is made, the holder of the right will pay to the possessor the value of the improvements, calculated in accordance with the rules on unjust enrichment.

ARTICLE 1194

(Compensation for deteriorated improvements)

The obligation of compensation for improvements is susceptible of compensation relating to the possessor’s responsibility for deteriorations.

ARTICLE 1195

(Luxurious improvements)

1. The good faith possessor has the right to make luxurious improvements if they are not to the detriment of the thing; if they are to the detriment thereof, he or she may not make them nor receive their value.
2. The bad faith possessor, in any case, loses the luxurious improvements he has made.

CHAPTER V
Defence of possession

ARTICLE 1196

(Preventive action)

If the possessor has a legitimate fear of being disturbed or dispossessed by someone, the author of the threat, at the request of the threatened individual, shall be cited and told that he or she must abstain from causing offence, under penalty of a fine and of payment for any damage caused.

ARTICLE 1197

(Direct action and legal defence)

The possessor who is disturbed or dispossessed may maintain himself or herself or restore himself or herself through his or her own force and authority, under the terms of Article 327, or go to court so that the court can maintain or restore the possession.

ARTICLE 1198

(Maintenance and restoration of possession)

1. If he or she goes to court, the disturbed or dispossessed possessor shall be maintained or restored, so long as the issue as to who holds the right is resolved.
2. If the possession has not been in existence for more than one year, the possessor may only be maintained or restored against someone who does not have better possession.
3. Better possession is possession that is deeded; in the absence of a deed, the older possession is better; and if the possessions are of equal age, the current possession is the better.

ARTICLE 1199

(Violent dispossession)

Without affecting the provisions of the articles above, the possessor who has been dispossessed with violence has the right to be provisionally restored to his or her possession, with no hearing for the dispossessor.

ARTICLE 1200

(Exclusion of non-apparent easements)

The actions mentioned in the above articles are not applicable in the defence of non-apparent easements, except when the possession is based upon a title from the owner of the easement structure or from the individual who transmitted it to him.

ARTICLE 1201
(Legitimacy)
1. The action of maintenance of the possession may be brought by the individual disturbed or by his or her heirs, but only against the individual who has caused the disturbance, except the action of compensation against the heirs of the latter.
2. The action of restoration of the possession may be brought by the dispossessed party or by his or her heirs, not only against the dispossessor, but also against anyone who is in possession of the thing, and has knowledge of the dispossession.

ARTICLE 1202
(Forfeiture)
The action of maintenance, as well as of restoration of possession, lapses if it is not brought within one year after the fact of disturbance or dispossession occurred or became known, when carried out in secret.

ARTICLE 1203
(Effect of maintenance or restoration)
Anything that has been maintained in possession, or has been restored to possession by the courts, is regarded as never having been disturbed or dispossessed.

ARTICLE 1204
(Compensation for damages and charges with restoration)
1. The possessor who has been maintained or restored has the right to compensation for damages suffered as a result of disturbance or dispossession.
2. The restoration of possession is performed at the dispossessor's expense and at the location of the dispossession.

ARTICLE 1205
(Pleas by third parties)
The possessor whose possession has been affected by court order may defend his or her possession through pleas brought by third parties, under the terms defined in the procedural law.

ARTICLE 1206
(Defence of joint possession)
1. Each of the joint possessors, irrespective of his or her share, may make use of the means provided for in the preceding articles against third parties, whether in defence of his or her own possession, or in defence of joint possession, and it is not licit that the third party opposes a possessor by claiming that the possessor does not have total ownership.
2. In the relations between joint possessors, the exercise of maintenance actions is not permitted.
3. With regard to everything else, the provisions of the present chapter are applicable to joint possession.

CHAPTER VI
Acquisitive prescription
SECTION I
General Conditions

ARTICLE 1207
(Concept)

Possession of the right of ownership or of other real rights of enjoyment, maintained for a certain length of time, empowers the possessor, unless there are provisions to the contrary, to acquire the right corresponding to the performance of his or her activity: this is called acquisitive prescription

ARTICLE 1208
(Retroactivity of acquisitive prescription)

If acquisitive prescription is invoked, their effects are retroactive to the date of initiation of the possession.

ARTICLE 1209
(Capacity to acquire)

1. Anyone with capacity to acquire may invoke acquisitive prescription.
2. Incapacitated persons may acquire possession through acquisitive prescription, either directly or though their legal representatives.

ARTICLE 1210
(Acquisitive prescription in the case of holding)

Holders or precarious possessors may not acquire the possessed right for themselves through acquisitive prescription, except if the certification of possession is transferred; but, in this case, the time necessary for the claim of acquisitive prescription begins to run only from the point in time at which the title is transferred.

ARTICLE 1211
(Acquisitive prescription by joint owner)

Acquisitive prescription relating to the object of the possession, obtained by a joint owner, is equally available to the other owners.

ARTICLE 1212
(Application of the rules of prescription)

The provisions relating to the suspension and interruption of prescription, as well as the contents of Articles 291, 294 and 296, with the necessary adaptations, are applicable to acquisitive prescription.

SECTION II

Acquisitive prescription relating to real estate

ARTICLE 1213

(Excluded rights)

The following may not be acquired through acquisitive prescription:

a) Non-apparent property easements;

b) Rights of use and habitation.

ARTICLE 1214

(Just title and registration)

Where there is a title of purchase that has been registered, acquisitive prescription takes effect:

a) If the possession, being of good faith, has been in effect for ten years, counting from the date of registration;

b) If the possession, even of bad faith, has been in effect for fifteen years, counting from the same date.

ARTICLE 1215

(Registration of mere possession)

1. If there has been no registration of the title of purchase, but only a registration of mere possession, acquisitive prescription can be claimed:

a) If the possession has continued for five years, counting from the date of registration, and if there is good faith;

b) If the possession has continued for ten years, counting from the same date, even if there is no good faith.

2. Mere possession will be registered based upon a legal judgment which recognises that the possessor has had peaceful, public possession for a period of no less than five years.

ARTICLE 1216

(Failure to register)

If there has been no registration of title, even of mere possession, acquisitive prescription can be claimed only after twenty years, if the possession is of good faith, and twenty-five , if it is of bad faith.

ARTICLE 1217

(Violent or secret possession)

If possession has been taken through violence or in secret, the time period for acquisitive prescription begins only after the cessation of violence or after the possession is made public.

SECTION III
(Acquisitive prescription relating to personal property)

ARTICLE 1218
(Things subject to registration)

Rights in rem in personal property that is subject to registration are acquired through acquisitive prescription under the following terms:

a) If there is a title of purchase and it has been registered, when the possession has continued for two years, with the possessor being in good faith, or four years if he is in bad faith.

b) If there has been no registration, and if the possession has continued for ten years, irrespective of the good faith of the possessor or the existence of a title.

ARTICLE 1219
(Things not subject to registration)

Acquisitive prescription relating to things that are not subject to registration can be claimed if the possession, of good faith and based upon a just title, has continued for three years, or if, irrespective of good faith and title, it has continued for six years.

ARTICLE 1220
(Violent or secret possession)

1. The provisions of Article 1217 are applicable to acquisitive prescription relating to personal property.

2. If, however, the thing possessed is passed on to a good faith third party prior to the cessation of the violence or the making public of the possession, the interested party may acquire rights to the possession after four years have elapsed, counting from the date of constitution of his or her possession, if there is a title, or seven years, in the absence thereof.

ARTICLE 1221
(Thing purchased from a merchant)

An individual who demands from a third party a thing that the third party purchased in good faith from a merchant who deals in the same item or an item like it is obligated to pay the price that the purchaser paid for it, but the individual has the right of return from the individual who culpably gave rise to any damages.

TITLE II
ON OWNERSHIP RIGHTS

CHAPTER I
Ownership in general

SECTION I
General Provisions

ARTICLE 1222
(Object of ownership rights)

Only corporal things, personal property or real estate, can be the object of the ownership rights regulated under this code.

ARTICLE 1223
(Intellectual property)

1. Authorial and industrial ownership rights are subject to special legislation.
2. However, the provisions of this code are, in a subsidiary fashion, applicable to authorial and industrial ownership rights to the extent that they are related in kind to those rights, and when they do not conflict with the regime especially established for them.

ARTICLE 1224
(Dominion of the State and other public entities)

The dominion of things belonging to the State or to any other public entities is equally subject to the provisions of this code with respect to anything that is not especially regulated and does not conflict with the nature of that dominion.

ARTICLE 1225
(Content of property rights)

The property owner fully and exclusively enjoys the rights of use, enjoyment and disposition of the things that belong to him, within the limits of the law and in observance of any restrictions it imposes.

ARTICLE 1226
(Restricted numbers)

The constitution, in any real fashion, of restrictions on property rights or of quotas relating to these rights is not permitted, except in cases provided for in the law; any restriction resulting from a legal transaction that does not meet these conditions is obligatory in nature.

ARTICLE 1227
(Resolvable and temporary ownership)

1.The right of ownership may be constituted with conditions.
2.Temporary ownership is admitted only in special cases provided for in the law.

ARTICLE 1228
(Effects)
The provisions of Articles 263 to 268 are applicable to conditional ownership.

ARTICLE 1229
(Expropriations)
No one can be deprived, wholly or in part, of his or her property rights except in cases set by law.

ARTICLE 1230
(Requisition)
Only in cases provided for in the law can there be temporary requisition of things in the private domain.

ARTICLE 1231
(Compensation)
If there is expropriation for public or private use, or requisition of assets, adequate compensation to the owner and to the holders of other affected real rights is always owed.

SECTION II
Protection of ownership

ARTICLE 1232
(Claims)
1. The owner may demand, in the courts, from any possessor or holder of the thing, recognition of his or her ownership right, and consequent restitution of what belongs to him.
2. If there is recognition of the ownership right, the restitution can be refused only in cases provided for in the law.

ARTICLE 1233
(Charges for restitution)
Restitution of the thing is made at the expense of the dispossessor, if any, and at the location where dispossession took place.

ARTICLE 1234
(Non-prescriptive nature of claims)
Without affecting rights acquired through acquisitive prescription, a claim is not prescribed by the passage of time.

ARTICLE 1235
(Direct action)
The protection of ownership by means of direct action is admissible under the terms of Article 327.

ARTICLE 1236
(Defence of other real rights)
The preceding provisions are applicable, with any necessary corrections, to the protection of all real rights.

CHAPTER II
Acquisition of ownership

SECTION I
General Conditions

ARTICLE 1237
(Modes of acquisition)
Ownership rights are acquired by contract, succession through death, acquisitive prescription, occupation, accession and other modes provided for in the law.

ARTICLE 1238
(Moment of acquisition)
The moment of acquisition of an ownership right is:
a) In the case of a contract, the moment designated in Articles 343 and 344;
b) In the case of succession through death, the moment succession is opened;
c) In the case of acquisitive prescription, the moment the possession begins;
d) In the cases of occupation and accession, the moment that the respective facts occur.

SECTION II
Occupation

ARTICLE 1239
(Things susceptible of occupation)
Things that may be acquired by occupation are animals and other chattels that have never had an owner, or were abandoned, lost or hidden by their owners, with the restrictions contained in the following articles.

ARTICLE 1240
(Hunting and fishing)
The occupation of wild animals found in their natural free state is regulated by special legislation.

ARTICLE 1241

(Wild animals with their own shelter)

1. Wild animals habituated to a certain shelter arranged through the effort of a human being, who move to some other shelter with a different owner, belong to the latter if they cannot be individually recognised; otherwise, the previous owner may recover them, so long as this causes no damages to the other individual.

2. If it is proven, however, that the animals were attracted by fraud or artifice of the owner of the shelter where they have been kept, that owner of the shelter is obligated to return the animals to the previous owner, or to pay triple their value if it is not possible to return them.

ARTICLE 1242

(Escaped wild animals)

Wild and hostile animals that have escaped from enclosures in which they have been kept by their owners may be freely destroyed or claimed by any individual who finds them.

ARTICLE 1243

(Lost animals and personal belongings)

1. Anyone who finds a lost animal or personal belonging, and knows to whom they belong, should return the animal or thing to its owner, or notify him of his or her find; if he does not know to whom they belong, he should make his or her find known in the most convenient manner, bearing in mind the value of the thing and the local possibilities, or advise the authorities, observing the uses of land, if such is the case.

2. Having made his or her finding known, the finder may make the thing his or her if it is not reclaimed by the owner within a period of one year, counting from the date of notice.

3. Having returned the thing, the finder has the right to compensation for his or her damages and for the expenses incurred, as well as to a prize dependent on the value of the find at the moment of its return, calculated in the following way: up to the value of one hundred US dollars, ten per cent; on the excess above this value up to five hundred US dollars, five per cent; on the remainder, two and a half per cent.

4. The finder enjoys the right of retention, and, in the case of loss or deterioration of the thing, bears no responsibility, unless this has been due to fraud or serious crime.

ARTICLE 1244

(Treasure)

1. If someone who finds personal property of some value, hidden or buried, is unable to determine who is its owner, he becomes the owner of half of what was found; the other half belongs to the owner of the chattel or of the real estate on which the treasure was hidden or buried.

2. The finder shall announce the finding, under the terms paragraph 1 of the preceding article, or notify the authorities, except when it is evident that the treasure was hidden or buried for more than 20 years.

3. If the finder does not comply with the provisions of the above paragraph, or takes possession of what has been found, or part of it, knowing who is the owner, or if he fails to tell the owner of the thing where it was found, the rights conferred in paragraph 1 of this article are forfeited in favour of the State, without exclusion of the rights that might be his or her as the owner.

SECTION III
Accession

SUBSECTION I
General Provisions

ARTICLE 1245
(Concept)

Accession is granted when a thing that is the property of someone is combined and incorporated with another thing that does not belong to him.

ARTICLE 1246
(Types)

1. Accession is regarded as natural if it results exclusively from the forces of nature; industrial accession occurs when, due to human action, objects belonging to various owners are brought together, or if someone applies his or her own work to materials belonging to somebody else, confounding the results of this work with someone else's property.
2. Industrial accession applies to both chattel and real estate, depending on the nature of the things.

SUBSECTION II
Natural accession

ARTICLE 1247
(General principle)

Anything that is added to the thing through the effects of nature belongs to the owner of the thing.

ARTICLE 1248
(Alluvial deposits)

1. For owners of properties abutting streams, anything which, as a result of the action of the stream, joins the property or is deposited upon it, successively and imperceptibly, belongs to the owner.
2. The provisions of the above paragraph are applicable to any property that is gradually dislocated through the action of the stream, from one boundary to the other, or from an upper property to a lower one, and the owner of the lost property may not invoke any rights in its regard.

ARTICLE 1249

(Avulsion)

1. If, through natural and violent action, a current uproots any plants, or carries away any object or known portion of a property, and deposits these things on a different property, their owner has the right to demand their return, so long as he does so within six months, if he was not previously notified with regard to such return within a legally assigned time period.

2. If the return is not done within the designated time periods, the provisions of the above article are applicable.

ARTICLE 1250

(Change of the stream bed)

1. If a stream changes direction, abandoning the old stream bed, its owners retain whatever rights they had to the stream, and the owner of the invaded property also retains ownership of any part of the property occupied by the stream.

2. If the stream divides into two branches or arms, and the old stream bed is not abandoned, the provisions of the above paragraph are still applicable.

ARTICLE 1251

(Formation of islands and islets)

1. Islands or islets that form in streams belong to the owner of the part of the stream bed occupied.

2. If, however, the islands or islets are formed through avulsion, the owner of the property on which the diminution has taken place enjoys the right of removal under the conditions prescribed in Article 1252.

ARTICLE 1252

(Lakes and lagoons)

The provisions of the above articles are applicable to lakes and lagoons in the case of the occurrence of analogous facts.

SUBSECTION III
(Accession – Industrial property)

ARTICLE 1253
(Joining or merger in good faith)

1. If someone, in good faith, joins or merges an object belonging to him or her with some other object, so that the separation of the objects is not possible, or even if it is possible, results in damage to any of its parts, the owner of the part that is of higher value becomes the owner of the resulting object, but he must compensate the owner of the other part, or present him with an equivalent thing.
2. If both things are of equal value, and the owners cannot agree as to who should become the owner, they shall enter into a bidding process, and the object in question shall be owned by the individual whose bid is higher; upon verification of the portion that should belong to the other party, the new owner is obligated to pay the other party that amount.
3. If the interested parties do not want to use the bidding process, the thing shall be sold, and each party shall receive from the proceeds of the sale the portion that is appropriate for him or her.
4. In either of the cases covered in the above paragraphs, the author of the merger is obligated to keep the combined thing, even it is of a lesser value, if the owner prefers the respective compensation.

ARTICLE 1254
(Joining or merger in bad faith)

1. If the joining or merger has been done in bad faith, and the new object can be separated without causing detriment, this shall be returned to its owner, without affecting the right he may have to be compensated for any damages suffered.
2. If, however, the thing cannot be separated without causing damage, the author of the joining or merger shall pay the value of the thing and compensate its owner, if he or she does not prefer to keep both things joined, and pays the author of the joining or merger the amount calculated in accordance with the rules regarding unjust enrichment.

ARTICLE 1255
(Casual merger)

1. If the joining or merger occurs in a casual fashion, and the joined or merged things cannot be separated without detriment to one or the other, they will belong to the owner of the more valuable part, who shall pay fair value to the other; if, however, he does not want to do so, the same right obtains for the owner of the less valuable part.
2. If neither of them wants to keep the thing, it shall be sold, and each of them shall receive the share of the price that applies to him or her.
3. If both things are of equal value, the provisions of paragraphs 2 and 3 of Article 1256 shall be observed.

ARTICLE 1256
(Good faith specification)

1. Whoever in good faith, through his or her own labours, gives new form a chattel belonging to someone else, takes ownership of the transformed thing if it cannot be returned to its primitive form, or if this cannot be accomplished without a loss of value created by the specification; in this latter case, however, the owner of the material has the right to keep it if the value of the specification does not exceed that of the thing.
2. In both of the cases covered by the above paragraph, whoever keeps the thing is obligated to compensate the other for the portion of the value that applies to him.

ARTICLE 1257
(Bad faith specification)

If the specification has been made in bad faith, the specified thing shall be returned to its owner in the state in which it is found, with compensation for damages, but the owner shall not be obligated to compensate the person making the specification if the value of the specification has not increased the value of the thing specified by more than one-third; if the increase is greater, the owner of the thing should make payment of any amount that exceeds the one-third.

ARTICLE 1258
(Cases of specification)

The following are cases of specification: writing, painting, drawing, photographing, printing, engraving and other similar actions, made through the utilisation of someone else's materials.

SUBSECTION IV
Accession – Industrial property

ARTICLE 1259
(Works, seedings and plantings with someone else's materials)

Anyone who, on his or her own land, builds, does seedings or plantings with someone else's materials, seeds or plants acquires the materials, seeds or plants that he has utilised, paying the respective value, in addition to any compensation that arises.

ARTICLE 1260
(Works, seedings or plantings done in good faith on someone else's property)

1. If someone in good faith builds on someone else's property, or on that property does seedings or plantings, and the value of the works, seedings or plantings is greater than the value of the property as it was before, the author of the incorporation acquires their ownership, paying the value that the property held prior to the works, seedings or plantings.
2. If the added value is equal, there shall be a bidding process between the first owner and the author of the incorporation, in the manner established in paragraph 2 of Article 1253.
3. If the added value is less, the works, seedings or plantings belong to the owner of the property, with the obligation to compensate the author of the works in the amount of the value of the works at the time of their incorporation.
4. It is understood that there has been good faith if the author of the works, seedings or plantings did not know that the property was not his, or if he was authorised to do the incorporation by the owner of the property.

ARTICLE 1261

(Works, seedings or plantings done in bad faith on someone else's property)

If the works, seedings or plantings were done in bad faith, the owner of the property has the right to demand that they be undone, and that the property be restored to its primitive state at the expense of the author, or, if he prefers, the right to keep the works, seedings or plantings for an amount set in accordance with the rules regarding unjust enrichment.

ARTICLE 1262

(Works, seedings or plantings done using someone else's materials on someone else's property)

1. If works, seedings or plantings are done on someone else's property with someone else's materials, seeds or plants, the owner of the materials, seeds or plants has the rights conferred under Article 1260 for the author of the incorporation, whether this has been done in good or bad faith.

2. If, however, the owner of the materials, seeds or plants is at fault, the provisions of the above article regarding the author of the incorporation are applicable to him; in this case, if the author of the incorporation was in bad faith, the responsibility of both is shared, and the division of the added value is made in proportion to the value of the materials, seeds or plants, as well as the labour.

ARTICLE 1263

(Extension of a building onto someone else's property)

1. When, during the construction of a building on one's own property, in good faith, a portion of someone else's property is occupied, the builder may acquire ownership of the occupied property if three months elapses, counting from the beginning of the occupation, without opposition from the owner, paying the value of the land, and repairing any damages caused, including that resulting from the depreciation of the remaining property.

2. The provision of the above paragraph relating to any real right of a third party to the occupied property is applicable.

CHAPTER III
Ownership of real estate

SECTION I
General Provisions

ARTICLE 1264

(Material limits)

1. The ownership of real estate covers the air space corresponding to the surface, as well as the subsoil, with everything that they contain that is not de-integrated from the domain by law or legal transaction.

2. The owner may not, however, prohibit acts by third parties that, by virtue of their altitude or depth, he has no interest in impeding.

ARTICLE 1265
(Real estate without a known owner)
Real estate without a known owner is considered to be State property.

ARTICLE 1266
(Emission of smoke, production of noise and similar facts)
The owner of a property may oppose the emission of smoke, soot, vapours, odours, heat or noise, as well as the production of trepidation and other similar facts coming from a neighbouring property, so long as such facts are the cause of substantial damage to the use of his or her property, or are not the result of normal utilisation of the building that emanates them.

ARTICLE 1267
(Damaging installations)
1. The owner may not construct nor maintain on its property any works, installations or deposits of corrosive or hazardous substances, if doing so would have harmful effects on the neighbouring property not permitted by law.
2. If the works, installations or deposits have been authorised by the competent public entity, or the special conditions prescribed in the law for their construction or maintenance have been met, their lack of use is only admissible from the moment at which damage becomes effective.
3. In either of these cases, compensation for the damage suffered shall be paid.

ARTICLE 1268
(Excavations)
1. The owner has the right to open mines or wells and to make excavations on his or her property, so long as they do not deprive neighbouring properties of the support needed to avoid sinkholes or landslides.
2. If damage is caused by the works undertaken, the neighbouring owners shall be compensated by the author of the works, even if the precautions deemed necessary have been taken

ARTICLE 1269
(Forced momentaneous passage)
1. If, in order to repair a building or construction, it is necessary to carry scaffolding across or place objects upon someone else's property, or to pass materials for the work across it or perform analogous actions, the owner of the property is obligated to consent to those actions.
2. Access to someone else's property is also permitted for whoever intends to retrieve things belonging to him which are accidentally on the property; the owner may impede such access, giving the thing to its owner.
3. In either of the cases covered by this article, the owner has the right to be compensated for any damage suffered.

ARTICLE 1270

(Collapse of construction)

If any building or other work is in danger of collapse, wholly or in part, and such collapse could result in damages to the neighbouring property, it is legal for the owner of the neighbouring property to demand that the person responsible for the damages, under the terms of Article 426, take the steps necessary to eliminate the danger.

ARTICLE 1271

(Natural drainage of water)

1. Lower properties are subject to receiving water that, naturally and without human involvement, runs off from higher properties, as well as earth and refuse drawn by the current.
2. The owner of the lower property may not carry out works that impede the drainage, nor may the owner of the higher property carry out works that would aggravate the drainage, without affecting the possibility of creating a legal easement for drainage in those cases where that is admitted.

ARTICLE 1272

(Works in defence against drainage)

1. The owner of a property where there are defensive works for containing drainage, or where, due to variation in the course of the drainage, it is necessary to carry out new works, is obligated to make careful repairs, or to tolerate those that are carried out, with no damage to him or her, by owners of properties who suffer damage or are exposed to imminent damage.
2. The provision of the above paragraph is applicable so long as it is necessary to remove from some property materials the accumulation of which or the continued presence of which impedes the course of the water, with damage or risk to a third party.
3. All owners who participate in the benefits of the works are obligated to contribute to their costs, in proportion to their interests, without affecting the responsibility that falls upon the author of the damage.

SECTION II

Right to demarcation

ARTICLE 1273

(Content)

An owner may require the owners of abutting properties to cooperate in the demarcation of the boundaries between his or her property and theirs.

ARTICLE 1274
(Procedure for demarcation)
1. The demarcation is done in conformity with the deeds of each owner, and in the absence of sufficient deeds, in harmony with the ownership of the abutters, or in accordance with the result of other means of proof.
2. If the deeds do not determine the limits of the properties or the area belonging to each owner, and the question cannot be resolved by possession or by some other proof, the demarcation is done by distributing the land in question in equal parts.
3. If the deeds indicate a space that is greater than or smaller than what is covered by all of the land, the missing or additional land shall be distributed proportionately to each owner.

ARTICLE 1275
(Non-prescriptive nature)
The right to demarcation is non-prescriptive, without affecting rights acquired under acquisitive prescription.

SECTION III
Right to enclosure

ARTICLE 1276
(Content)
At any time, the owner may wall off, create ditches around or plant hedges around his or her property, or enclose it in any manner.

ARTICLE 1277
(Trenches, drains and ditches)
An owner who intends to dig trenches or drains around his or her property is obligated to create mounds of earth as wide as the depth of the trench, and to create them in accordance with Article 1268; if there is a trench, there should be drainage or furrows, unless in either case he or she has the use of the opposite land.

ARTICLE 1278
(Presumption of commonality)
1. The trenches, drains and ditches between the properties of diverse owners that do not meet the conditions imposed in the previous article are presumed to be in common if there is no evidence to the contrary.
2. It is evidence that the trench or drainage ditch without an external mound of earth is not in common if it is found that the excavated earth is thrown to only one side for more than one year; in this case, it is presumed that the trench belongs to the owner on whose side the excavated earth is located.

ARTICLE 1279
(Live hedges)
1. Live hedges may not be planted on the boundaries of properties without the prior placement of dividing lines.
2. Live hedges are considered, if there is any question, to belong to the owner who most needs them; if both are in the same case, they are presumed to be in common, unless there is usage of land whereby their ownership is determined otherwise.

SECTION IV
(Constructions and buildings)

ARTICLE 1280
(Windows, doors, porches and similar works)
1. An owner who puts a building or some other construction on his or her property may not create windows or doors that look directly on the neighbouring property without leaving a distance of a metre and a half between the properties.
2. An equal restriction is applicable to porches, patios and roofed terraces, or similar structures, if they have parapets that are less than a meter and a half in height throughout their extent, or a part of it.
3. If the two properties will form an oblique angle, the distance of a metre and a half is counted perpendicularly from the property to its line of sight to the newly-built construction or building; however, if the oblique angle is greater than forty-five degrees, the restriction imposed on the owner is not applicable.

ARTICLE 1281
(Properties exempted from the restriction)
The restrictions of the above article are not applicable to properties separated from each other by a highway, road, street, alley or other passage on public domain land.

ARTICLE 1282
(Easement of views)
1. The existence of windows, porches, patios, roofed terraces or similar structures in contravention of the provisions in the law may lead to the creation, in general terms, of an easement of views by acquisitive prescription.
2. If this easement is created, whether by acquisitive prescription or some other means, the neighbouring owner is permitted to create a building or other structure on his or her property only if he leaves between the new structure and the works mentioned in paragraph 1 a space of at least a metre and a half, in relation to the extent of these works.

ARTICLE 1283

(Skylights, embrasures or glass for light and air)

1. Skylights, embrasures and glass for light and air are not considered to be covered by restrictions in the law, and a neighbour may, at all times, erect his or her house or abutting wall, even if he or she blocks such openings.

2. Skylights, embrasures or glasses for light and air shall, however, be situated at a height of at least 1.8 meters, measured from the floor, and should not have any of their dimensions longer than fifteen centimetres; the height of 1.8 meters relates to both sides of the wall where these openings are made.

ARTICLE 1284

(Windows with grills)

The provisions of paragraph 1 in the above article are applicable to openings, whatever their dimensions, that are equally located more than 1.8 meters above the ground, with fixed grills of iron or another metal, with a section of not less than one centimetre square, and a mesh that is not greater than five centimetres.

ARTICLE 1285

(Eaves)

1. An owner must build in such a way that the edge of the roof or other cover does not drip on the neighbouring building, leaving a space of at least five decimetres between the building and the edge if this cannot be avoided in any other way.

2. Whatever the dimensions of the eaves, the owner of a lower property may not install a building or construction that impedes the drainage of water, and he or she shall design the structure so that the water falls on his or her own property, without affecting the dominant property.

SECTION V

Planting of trees and shrubs

ARTICLE 1286

(Terms under which this can be done)

1. The planting of trees and shrubs is permissible up to the property line, but the owner of the neighbouring property has the right to remove and cut the roots of these if they are on his or her land, as well as trunks or branches that overhang his or her property if the owner of the tree, ordered legally or extra-legally to do so, does not do so within three days.

2. The provision of the above number does not affect the restrictions contained in special laws relating to the planting or seeding of eucalyptuses, acacia trees or other equally noxious trees in proximity to cultivated land, irrigated land, water sources or town property, nor other restrictions imposed for reasons of the public interest.

ARTICLE 1287

(Picking of fruits)

The owner of a tree or shrub that is contiguous with another person's property, or abutting it, may demand that the owner of the property allow him to pick the fruit if it is not possible to do so from his or her side; but he is responsible for any damages that the process of picking might cause.

ARTICLE 1288

(Trees or shrubs situated on the property line)

Trees or shrubs that grow on the dividing line of properties belonging to different owners are presumed to be in common; either of the parties has the right to remove them, but the other party has the right to receive half the value of the trees or shrubs, or half of the firewood or wood that they produce, whichever the case.

ARTICLE 1289

(Trees or shrubs that serve as the boundary line)

If a tree or shrub serves as the boundary line, it cannot be cut or removed except by mutual agreement.

SECTION VI
(Barriers and walls in moiety)

ARTICLE 1290
(Forced community)
ARTICLE 1291
(Presumption of co-ownership)

1. An owner of an abutting property with a barrier or wall owned by someone else may acquire it in common, wholly in part, with respect to either its extent or its height, paying half of its value, and half of the value of the land on which it is built.
2. The same right applies to a tenant or tenant farmer.

1. The boundary barrier or wall between two buildings is presumed to be in common in all of its height, if the buildings are of equal height, and up to the height of the shorter, if they are not.
2. Walls between land properties, or between patios and back yards of town property, are presumed to be in common, if there is no evidence to the contrary.
3. The following are evidence that excludes the presumption of community:

a) The existence of a diagonal spike on only one side;
b) The existence on the wall of diagonal wooden supports along the entire length of the wall, on just one side;
c) The contiguous building is not equally walled on its other sides.
4. In the case of Item a) above, it is presumed that the wall belongs to the building toward which the supports point; in other cases, the building on whose side the constructions or indications mentioned are found.
5. If the wall supports along its entire length any construction that is on only one of the sides, it is presumed in the same fashion that it belongs exclusively to the owner of the construction.

ARTICLE 1292
(Windows and skylights)

An owner who owns in common a barrier or wall may not cut windows or openings in it, nor make any other alteration, without the consent of the other party.

ARTICLE 1293
(Construction on the wall in common)

1. Each of the parties, however, has the right to build on the barrier or wall in common, and to create on it crossbars or rafters, provided these do not go beyond the middle of the barrier or wall.
2. If the barrier or wall has a width that is less than five decimetres, the restriction in the above item does not apply.

ARTICLE 1294
(Raising the wall in common)

1. Either of the parties is permitted to alter the barrier or wall in common, so long it is at his or her expense, and he takes responsibility for all costs of maintenance of the altered part.
2. If the barrier or wall is not capable of bearing the raising, the party that intends to raise it must rebuild it in its entirety, at his or her own expense, and if he wants to increase its thickness, the space used to do so must be on his or her side.
3. The party that has not contributed to the raising may acquire an in common status with regard to the increased part, paying half of the value of that part, and, in the case where the thickness is increased, half of the value of the ground corresponding to the increase.

ARTICLE 1295
(Repair and reconstruction of the wall)

1. The repair or reconstruction of a barrier or wall in common is made at the expense of both parties, in proportion to their parts.
2. If the wall is simply for blockage, the expenses are divided equally between the parties.
3. If, in addition to the function of blockage, one of the parties makes use of the wall in a way that is not in common, the expenses are prorated between them in proportion to the usage that each will enjoy.
4. If the dismantling of the wall owes to the fact that only one of the parties will benefit, only the beneficiary is obligated to reconstruct or repair it.
5. It is always the right of a party to be exempted of the charges for repair or reconstruction of a barrier or wall, thereby renouncing his or her right under the terms of paragraph 1 and 2 of Article 1331.

SECTION VII
Division and parcelling of land property

ARTICLE 1296
(Division)

1. Properties suitable for farming may not be divided into parcels with an area of less than a minimum surface, corresponding to the fixed farming unit for each of the country's zones; division, for this purpose, consists in the constitution of usufruct relating to a parcel of land.
2. Division is also prohibited if it could result in the compromise of either of the parcels, even if the area set for a farming unit is observed.
3. The precepts of this article encompass all contiguous land pertaining to the same owner, even where it consists of separate properties.

ARTICLE 1297

(Possibility of division)

The prohibition of division is not applicable to:

a) Lands that are component parts of urban properties or are used for some purpose other than farming.

b) The case where the acquirer of the parcel resulting from division is the owner of land that is contiguous with the land acquired, so long as the area of the remaining part of the divided land represents at least one farming unit.

c) The case where the division has as its goal the disintegration of lands for construction or rectification of boundary lines.

ARTICLE 1298

(Exchange of lands)

The exchange of lands suitable for farming is admissible only:

a) If both lands are equal in area to, or greater than, the farming unit set for the respective zone;

b) If, with either of the lands having an area that is less than the farming unit, the exchange results in the acquisition by one of the owners of land contiguous with other land that he owns, under terms that allow him to constitute a new property with an area that is equal to or larger than that unit.

c) If, irrespective of the area of the lands, both of the exchanging parties acquire land that abuts their own land.

ARTICLE 1299

(Sanctions)

1. Acts of subdivision or exchange may be annulled if they are contrary to the provisions of Articles 1296 and 1298, as well as any division made that is supported by subparagraph c) of Article 1297, if the construction is not begun within a period of three years.

2. The Office of the Public Prosecutor, or any owner who has the right of preference under the terms of the following article, may legitimately enter an action for annulment.

3. The action of annulment expires after three years, counting from the date of the action or from the time period referred to in paragraph 1 above.

ARTICLE 1300
(Right of preference)

1. Owners of abutting land, the area of which is smaller than a farming unit, reciprocally enjoy the right of preference in the case of sale, dation in fulfilment or leasing of any properties for which there is no abutting owner.
2. If there are several owners with a right of preference, this right falls:

a) In the case of a sale of a property that lacks access, to the owner who has an access easement.
b) In other cases, to the owner who, with his or her preference, obtains an area that most closely approximates the dimensions of a farming unit for the respective zone.
3. If those with the right of preference are in identical circumstances, there will be a bidding process, and the excess shall go to the seller.
4. The provisions of Articles 351 to 353 and 1329, with the necessary adaptations, apply to the right of preference granted under this article.

ARTICLE 1301
(Cases in which there is no right of preference)

Owners of abutting properties shall have no right of preference:
a) If one of the properties is a component of a town property, or if it is destined for a use other than farming;
b) If the sale covers a set of properties that, although dispersed, form a family-type farm.

ARTICLE 1302
(Parcelling)

1. Parcelling is the set of property remodelling operations aimed at ending any fragmentation and dispersion of land properties belong to the same holder for purposes of improving the technical and economic conditions of the farm.
2. The terms under which such parcelling operations shall be carried out are set by special legislation.

SECTION VIII
Shortcuts

ARTICLE 1303
(Abolition of shortcuts)

Shortcuts are considered as having been abolished, no matter what their age, so long as they cannot be shown to be established to the advantage of certain properties, and thereby constituting easements.

ARTICLE 1304
(Recognised shortcuts)

There is recognition, however, of shortcuts with age-old ownership which lead to a bridge or fountain with manifest utility, so long as there are no public ways used for taking advantage of one or the other; there are others that are covered by special legislation.

CHAPTER IV
Ownership of water courses

SECTION I
General Provisions

ARTICLE 1305
(Classification of waters)

Water courses are public, community or private; the first ones are subject to the regime established by special laws, the second ones are subject to local uses, and the third ones to the provisions of the following articles.

ARTICLE 1306
(Private water courses)

1. Private water courses are:

a) Those that arise on private property, and the rainfall that falls on them, so long as they do not cross, abandoned, the limits of that property or of the land onto which the owner has diverted them, and also those that, having crossed over those limits, and running over private property, have been consumed before reaching the sea or some other public water course;
b) Subterranean water courses on private property;
c) Lakes or lagoons that are on private property, if they are not fed by public water courses;
d) Water courses that were originally public, but entered the private domain by 21 March 1868, with prior occupation, royal grant or concession;
e) Public waters conceded perpetually for irrigation purposes or for agricultural improvements;
f) Subterranean water courses on public, municipal or borough land, utilised under license, and used for irrigation purposes or for agricultural improvements.

2. If the volume of water referred to in subparagraphs d), e) and f) above is not determined, it is understood that there is a right only to the sections of the water course that are necessary to the purpose established for them.

ARTICLE 1307

(Works for the storage or derivation of water; non-navigable or non-floatable stream beds)

1. Also regarded as private are:

a) Wells, brooks, canals, aqueducts, millstreams, reservoirs, shallow lakes and other works for capturing, deriving or storing public or private water courses;

b) The beds of non-navigable or non-floatable streams that cross private lands;

2. Understood to be such beds are the portions of land covered by water that does not overflow onto natural soil that is usually dry.

3. When the current passes between two buildings, each owner holds the tract between its bank and the centre line of the stream, without prejudice to the terms of articles 1248 and the following.

4. Shorelines or slopes, and the tops of knolls, enclosures, earthen walls, masonry or stone structures raised above the streamside ground surface are not part of the stream bed, but of its banks.

ARTICLE 1308

(Water requisition)

1. In urgent cases of fire or public calamity, the administrative authorities may, without hearings or prior compensation, order the immediate utilisation of any private water courses needed to contain or avoid damage.

2. If appreciable damage arises as a result of the utilisation of the water courses, those damaged have the right to compensation, paid by those for whose benefit the water was utilised.

SECTION II

Utilisation of water courses

ARTICLE 1309

(Sources and headwaters)

An owner of a property where there is a water source or headwater may make use of it freely, except for the restrictions provided for in the law and the right that a third party may have rightfully acquired to use the water.

ARTICLE 1310

(Titles of acquisition)

1. Considered as fair title to water sources and headwaters, depending on the case, is any legitimate means for the purchase of the ownership of real estate or of easements.

2. Acquisitive prescription, though, occurs only when there is construction, visible and permanent, on the property where the water source or headwater exists, revealing the catchment and ownership of the water on the property; with respect to such works, any kind of proof is admitted.

3. In the case of subdivision or partitioning of properties without the intervention of a third party, the acquisition of the right of easement under the terms of Article 1439 does not depend upon the existence of signs indicative of charges set up by the previous owner.

ARTICLE 1311

(Rights of lower properties)

Owners of properties to which are derived water courses from whatever source may make use of the water on such properties; but the retraction of this use for purposes of a new utilisation made by the owner of the water course does not constitute a violation of rights.

ARTICLE 1312

(Restrictions on the use of water courses)

1. An owner of a water course is not permitted to alter its usual course if the inhabitants of a settlement or a farm have made use of the waters for domestic purposes for five years.
2. If the inhabitants of a settlement or a farm have not acquired the use of the water course by fair title, the owner has the right to compensation, which shall be paid, depending on the case, by the respective borough board or by the owner of the farm.

ARTICLE 1313

(Rain water and lakes and lagoons)

The provisions of the above articles are applicable, with any necessary adaptations, to the rain water referred to in Item a) of paragraph 1 of Article 1306 , and to the waters of lakes and lagoons covered in Item c) of that same article.

ARTICLE 1314

(Underground water)

1. It is permitted that an owner seek out underground water on his or her property, by means of ordinary wells or artesian wells, mines or other excavations, so long as this does not damage the rights that any third party may have acquired rightfully.
2. Without prejudice to the provisions of Article 1316, the diminution of the volume of any public or private water course as a result of the utilisation of underground water does not constitute a violation of the rights of a third party, unless the catchment is made by man made, and not naturally occurring infiltrations.

ARTICLE 1315

(Titles of acquisition)

1. Titles of acquisition of underground waters are considered to be those referred to in paragraphs 1 and 2 of Article 1310.
2. The simple grant given to a third party of the right to seek out underground water does not mean that the owner has been deprived of that same right, if such abdication is not clearly a result of the title.

ARTICLE 1316

(Restrictions on the usage of water)

An owner who, in seeking out underground water, alters or diminishes a water source or reservoir that is public is obligated to restore things to their previous state; if this is not possible, he must provide, for the same usage, at an appropriate location, water that is equivalent to the amount of water that the public has lost.

ARTICLE 1317
(Waters originally public)
The waters referred to in subparagraphs d), e) and f) of Article 1306 are inseparable from the properties on which they are located, and the rights thereto shall lapse, with the waters returning to the public domain, if they have been abandoned, or if a positive use thereof, corresponding to the purpose for which they were destined, or for which they were conceded, is not made.

SECTION III
Co-ownership of waters

ARTICLE 1318
(Costs of conservation)
1. If waters belong to two or more co-users, all of them must contribute to the expenses necessary for the appropriate utilisation of the waters, in proportion to use, and they may, for this purpose, carry out any works that are necessary, and any required studies, when it is recognised that there has been a loss or diminution of the volume of the stream.
2. The co-user may not exempt himself or herself from the charge by renouncing his or her rights in favour of the other co-users, against their will.

ARTICLE 1319
(Subdivision of waters)
Subdivision of shared water courses, when it is carried out, is done, if the title is silent on the issue, in proportion to the surface, the needs and the nature of the crops on the properties to be irrigated, and the water or the time of its utilisation can be shared as best fits with its good use.

ARTICLE 1320
(Customs relating to subdivision of waters)
1. Waters enjoyed in common which, in accordance with customs that have been followed for more than twenty years, have been subdivided or subordinated to a stable and normal regime of distribution, continue to be utilised in the same manner, with no new subdivision.
2. The requirements of custom also impose on the co-users that they are not the owners of the waters, without affecting the rights of the owner, who may at all times divert or claim the waters if they are about to be used by anyone who has not acquired the right to the waters.

ARTICLE 1321
(Abolished customs)

1. Considered as abolished with regard to the utilisation of water courses is the custom of using them for a parcel-parcel system or others that are similar, through which the water belongs to the primary occupant, with no other norm for distribution other than discretion; water courses that have been utilised in that way are considered as being indivisible for all intents and purposes.
2. Also considered as having been abolished are the customs of breaking up or emptying dams and dikes built at higher elevations, and diverting from them water to be utilised on properties or mills located at lower elevations that have no rights to usage; if there is a right to usage, the waters are considered as indivisible.

ARTICLE 1322
(Interpretation of titles)
So long as the titles do not contain a different sense, continuous use means at all times; daily use means twenty-four hours, counting from midnight; diurnal or nocturnal use is measured between sun-up and sundown, or vice versa; weekly use begins at noon on Sunday and ends at the same time on the same day of the ensuing week; use in the dry season means from 1 July to 31 October, and use in the rainy season means corresponds to the other months of the year.

CHAPTER V
Co-ownership

SECTION I
General Provisions

ARTICLE 1323
(Concept)
1. There is property in common, or co-ownership, if two or more individuals are simultaneously the holders of the right to ownership of the same thing.
2. The rights of partners or co-owners regarding the thing in common are qualitatively equal, although they may be quantitatively different; the shares are presumed to be quantitatively equal in the absence of anything to the contrary in the master deed.

ARTICLE 1324
(Application of the rules of co-ownership to other forms of community)
The rules on co-ownership are applicable, with the necessary adaptations, to the community status of any other rights, without prejudice to the special provisions regarding each of those other rights.

ARTICLE 1325
(Position of co-owners)
1. Co-owners shall jointly exercise all of the rights held by the single owner; separately, they participate in the advantages and the charges for the thing in proportion to their shares, and under the terms of the following articles.
2. Each co-owner may claim the thing in common from a third party, and the third party may not oppose this by claiming that the thing does not belong to him in its entirety.

SECTION II
Rights and charges of the co-owner

ARTICLE 1326
(Use of the thing in common)

1. In the absence of an agreement regarding the use of the thing in common, either of the joint owners is permitted to make use of it, so long as he does not use it for a purpose that is different from that for which the thing is normally used, and does not deprive the other joint owners of any use to which they equally have the right.
2. The use of the thing in common by one of the joint owners does not constitute exclusive ownership nor ownership of a greater portion of it, unless the title has been transferred.

ARTICLE 1327
(Management of the thing)

1. The provisions of Article 916, with any necessary adaptations, are applicable to the joint owners; however, in order to have the majority of the joint owners required by law, it is necessary that they represent at least half of the total value of the shares.
2. If it is not possible to form the legal majority, any of the joint owners is permitted to go to court, which shall make a decision based upon a judgment of equity.
3. Any actions performed by a joint owner against the opposition of the legal majority of the joint owners may be annulled, and the author becomes responsible for any damage caused.

ARTICLE 1328
(Disposition and encumbrance of the share)

1. The joint owner may dispose of his or her entire share in the community, or of part of it, but he may not, without the consent of the other joint owners, sell or encumber a specific part of the thing in common.
2. The disposal or encumbrance of a specific part without the consent of the joint owners is regarded as being the disposal or encumbrance of a thing owned by someone else.
3. The disposal of the share is subject to the form required for the disposition of the thing.

ARTICLE 1329
(Right of preference)

1. The joint owner has the right of preference, and takes first place among those with legal preference in the case of sale, or dation in fulfilment, of the share of any of his or her co-owners to strangers.
2. The provisions of Articles 351 and 352, with the appropriate adaptations, apply to the preference of a joint owner.
3. If there are two or more individuals with the right of preference, the share being sold is awarded to all of them, in proportion to their shares.

ARTICLE 1330
(Preference action)

1. The joint owner who has not been informed of the sale or the ceding in accord and satisfaction of a share has the right to take ownership of the share sold, so long as he requests it within six months, counting from the date on which he was informed of the essential elements of the sale, and deposits the price owed within 15 days following the announcement of his or her intent.
2. The right of preference and the respective action are not negatively affected by the modification or cancellation of the sale, even if these effects result from admission or legal decision.

ARTICLE 1331
(Necessary improvements)

1. Joint owners shall contribute, in proportion to their respective shares, to the expenses necessary for the conservation or enjoyment of the thing in common, without affecting the faculty to exempt themselves from the charge by renouncing their right.
2. The renunciation, however, is not valid without the consent of the other joint owners if the expense has already been approved by the interested party, and it is revocable if the expenses in question do not materialise.
3. The renunciation by the joint owner is subject to the form prescribed for donation and usage by all of the joint owners, in proportion to their respective shares.

ARTICLE 1332
(Right to demand division)

1. None of the joint owners is obligated to continue with the non-division, except when it has been agreed that the thing be kept undivided.
2. The time period set for non-division of the thing will not exceed five years; but it is permitted that this time period be renewed, one or more times, through a new agreement.
3. The clause on non-division is valid with respect to third parties, but it shall be registered for that purpose if the joint ownership relates to real property or to personal property that is subject to registration.

ARTICLE 1333
(Process of division)

1. Division is done amicably or under the terms of the procedural law.
2. Amicable division is subject to the form required for the encumbered sale of the thing.

CHAPTER VI
Horizontal property

SECTION I
General provisions

ARTICLE 1334
(General principle)

The fractions of which a property is comprised, in order to constitute independent units, can belong to different owners in a horizontal property regime.

ARTICLE 1335
(Object)

Only autonomous fractions can be the object of horizontal property that, besides constituting independent units, are different and isolated between themselves with their own exit into a common part of the property or into a public area.

ARTICLE 1336
(Failure to comply with legal requirements)

1. Failure to comply with legal requirements is tantamount to nullity of the title deed of the horizontal property and the subjection of the property to the co-ownership regime by allotting to each partner such share as may be determined in terms of article 1340 or, in the absence of such determination, the share corresponding to the relative value of the fraction.
2. Joint owners, and the Office of the Public Prosecutor, may allege the nullity of the title on the participation of the public entity responsible for approving or inspecting properties.

SECTION II
Constitution

ARTICLE 1337
(General principle)

1. Horizontal property can be constituted through a legal transaction, by acquisitive prescription, or through a court decision handed down in connection with the partitioning of jointly owned property or in an inventory proceeding.
2. The constitution of horizontal property through a court decision may take place at the request of any partner, provided that the requirements set by article 1336 are complied with.

ARTICLE 1338
(Content of the title deed)
1. The title deed shall specify the parts of the building corresponding to different fractions, so that these are duly individualised, and the relative value of each fraction, expressed in either percentage or permillage terms, of the total value of the building shall be determined.
2. In addition to the specifications set out in the previous paragraph, the title deed may also contain the following:
a) Mention of the purpose for which each fraction or common part is intended.
b) Joint ownership regulation, governing the use, usufruct, and conservation of both common and autonomous parts;
c) Provision relating to the arbitral commitment to resolve disputes arising out of the co-ownership relationship.
3. Lack of specification required by paragraph 1 above and non-coincidence between the purpose referred to in subparagraph a) of paragraph 2 and what was established in the project approved by competent public entity shall determine the nullity of the title deed.

ARTICLE 1339
(Amendment to the title)
1. Without prejudice to the provisions of article 1343, paragraph 3, the title deed of horizontal property may be amended by a public deed, with the agreement of all joint owners.
2. The manager, representing the joint ownership, may grant the deed referred to in the previous paragraph, as long as the agreement is mentioned in the minutes signed by all joint owners.
3. Failure to comply with the provisions of article 1325 is tantamount to the nullity of the agreement; such nullity can be declared at the request of people and entities determined in article 1336, paragraph 2.

SECTION III
Joint owners' rights and obligations
ARTICLE 1340
(Joint owners' rights)
1. Each joint owner is the exclusive owner of the fraction that belongs to him and co-owner of the building's common parts.
2. These two rights are inextricable; none of them can be disposed of separately; nor is it licit to waive the common part as a means for the joint owner to exonerate himself or herself from expenses required for the conservation or usufruct thereof.

Article 1341
(Building's common parts)

1. The following are common parts of the building:
a) The ground, as well as foundations, columns, pillars, master walls, and all the remaining parts that comprise the building structure;
b) The roof or penthouse terraces, even if intended for use of any fraction;
c) Entries, halls, staircases, and corridors for common use or passage by two or more joint owners;
d) General water, electricity, heating, air conditioning, gas, communication, and similar fixtures;
2. The following are also considered as common parts:
a) Yards and gardens added to the building;
b) Elevators;
c) Quarters intended for the doorman's use and residence;
d) Garages and other parking places;
e) Generally, things not affected by the exclusive use of one of the joint owners.
3. The title deed can assign certain zones of the common parts for the exclusive use by one of the joint owners.

ARTICLE 1342
(Limitation on the exercise of rights)

1. Joint owners, in their relations between themselves, are generally subject, regarding the fractions of their exclusive ownership and the common parts, to limitations imposed on owners and co-owners of immovable property.
2. Joint owners are barred from:
a) harming, whether with new works or for lack of repair, the safety, architectural line, or aesthetic layout of the building;
b) assigning his or her fraction to uses that are offensive to good manners;
c) using it for other than the intended purpose;
d) undertaking any actions or activities that have been forbidden in the title deed or, at a later stage, by deliberation of the assembly of joint owners with no opposition.
3. Works that change the building's architectural line or aesthetic layout can be carried out if, to that effect, prior authorization has been granted by the assembly of joint owners, approved by a representative majority of two thirds of the building's total value.
4. Where the title deed does not have provisions regarding the purpose of each autonomous fraction, change in its use requires authorisation from the assembly of joint owners, approved by a representative majority of two thirds of the building's total value.

ARTICLE 1343

(Merger or division of autonomous fractions)

1. The merger of two ore more fractions of the same building into one does not requires authorization from other joint owners, as long as the fractions are contiguous.
2. For the purposes of the provisions of the preceding paragraph, fractions are not required to be contiguous when it comes to fractions corresponding to storerooms and garages.
3. The division of fractions into new autonomous fractions is not permitted, except with authorization contained in the title deed or from the assembly of joint owners with no opposition.
4. In the cases provided for in the foregoing paragraphs, the power to, by a unilateral act contained in a public deed, introduce the corresponding change in the title deed lies with the joint owners who merged or divided the fractions.
5. The public deed referred to in the previous paragraph shall be communicated to the manager within a time period of 30 days.

ARTICLE 1344

(Right of preference and division)

Joint owners do not enjoy rights of preference in the disposition of fractions nor do they have the right to request the division of common parts.

ARTICLE 1345

(Charges pertaining to conservation and usufruct)

1. Except as otherwise provided, the expenses required for the conservation of the common parts of the building and the payment for services of common interest are borne by the joint owners in proportion to the value of their fractions.
2. However, expenses related to the payment for services of common interest may, through a provision in the co-ownership regulation, approved with no opposition by a representative majority of two thirds of the building's total value, be the responsibility of the joint owners, either in equal parts or in proportion to their respective usufruct, as long as the criteria determining their imputation are duly specified and justified.
3. Expenses pertaining to different flights of the stairway or to common parts of the building that exclusively service some of the joint owners are the responsibility of those who make use of them.
4. In elevator expenses, only joint owners whose fractions can be serviced by such elevators participate.

ARTICLE 1346

(Innovations)

1. Works constituting innovations depend on the approval of the majority of the joint owners, and this majority must represent two thirds of the building's total value.
2. In the building's common parts, innovations that might harm the use by some of the joint owners, of both own and common things, are not allowed.

ARTICLE 1347

(Obligations regarding innovations)

1. Expenses with innovations are the responsibility of joint owners in terms established in article 1345.
2. Joint owners who have not approved the innovation are obliged to participate in the respective expenses, except if the refusal to do so is considered by the court as well founded.
3. Refusal is always considered well founded when the works are of a recreational nature or are not commensurate with the importance of the building.
4. The joint owner whose refusal is considered as well founded may, at all times, benefit from the innovation upon payment of an amount corresponding to the work execution and maintenance expenses.

ARTICLE 1348

(Indispensable and urgent repairs)

Indispensable and urgent repairs in common parts of the building may,, where the manager is absent or unable to act, be carried out on the initiative of any joint owner.

ARTICLE 1349

(Building destruction)

1. In case of destruction of the building or of one of its parts representing at least three fourths of its value, any of the joint owners has the right to demand the sale of the land and materials in such a way as the assembly may determine.
2. If destruction comprises a smaller part, the assembly may consider, by the majority of joint owners and the capital invested in the building, to reconstruct it.
3. Joint owners who do not want to take part in the reconstruction expenses may be forced to dispose of their rights to other joint owners according to the value agreed amongst themselves or determined by the court.
4. A joint owner disposing of his or her rights may choose the joint owner or joint owners to whom the transmission is to be made.

ARTICLE 1350

(Co-ownership regulation)

1 - If there are more than four joint owners and if the co-ownership regulation does not form part of the title deed, it must be drafted in order to govern the use, usufruct, and conservation of the common parts.
2 - Without prejudice to the provisions of article 1338, paragraph 2, subparagraph b), it is incumbent upon the assembly of joint owners to draft the regulation, or upon the manager if the former fails to do so.

SECTION IV
Management of the common parts of the building

ARTICLE 1351
(Governing bodies)

1. The management of the building's common parts is the responsibility of the assembly of joint owners or a manager.
2. Each joint owner has in the assembly as many votes as the number of entire units that fit in the percentage or permillage referred to in article 1338.

ARTICLE 1352
(Assembly of joint owners)

1. The assembly meets in the first fortnight of January following a convening notice given by the manager to discuss and approve the accounts pertaining to the previous year and to approve the expenditure budget for the current year.
2. The assembly shall also meet as and when convened by the manager or by joint owners representing at least twenty five percent of the invested capital.
3. Joint owners may be represented by proxy.

ARTICLE 1353
(Convening the Assembly and its functioning)

1. The board is convened by means of registered mail sent 10 days in advance of the meeting or through a convening notice also 10 days in advance , as long as there is a receipt note signed by the joint owners.
2. The summoning notice shall indicate the day, time, venue, and the agenda for the meeting and communicate subjects whose deliberations can only be approved by unanimity of votes.
3. Deliberations are taken, except as specified in a special provision, by majority of representative votes of capital invested.
4. If a number of joint owners sufficient to obtain such majority and in the convening notice is not yet set a new date, a new meeting is considered convened for a week later, at the same place and time, and in this case the meeting can deliberate by majority of votes of joint owners present, as long as they represent at least one fourth of the total value of the building.
5. Deliberations that need to be approved by unanimity of votes can be approved by unanimity of joint owners present, provided that they represent at least two thirds of the capital invested, on condition that the deliberation is approved by the absent joint owners in terms of the following paragraphs.
6. Deliberations have to be communicated to all absent joint owners by registered mail with delivery notice within 30 days.
7. Joint owners have 9 days after receiving the mail referred to in the previous paragraph to communicate, in writing, to the assembly of joint owners his or her consent or disagreement.
8. A joint owner's silence shall be considered as approval of the deliberation communicated in terms of paragraph 6.
9. A non-resident joint owner shall, in writing, communicate to the manager his or her residence or that of his or her representative.

ARTICLE 1354
(Rebuttal of deliberations)
1. Deliberations taken by the assembly against the law or previously approved regulations are annullable upon request of any joint owner who has not approved them.
2. Within 10 days of the date on which the deliberation is taken, for present joint owners, or of the date on which the notice is served, for absent joint owners, the manager may be required to convene an extraordinary meeting in 20 days' time to revoke invalid or ineffective deliberations.
3. Within 30 days counted in accordance with the previous paragraph, any joint owner may subject a deliberation to an arbitration centre.
4. The right to suggest an annulment suit expires within 20 days of the date on which the deliberation is taken by the extraordinary meeting or, in case it has not been requested, within 60 days of the date on which the deliberation is taken.
5. Suspension of deliberation may also be requested in terms of the procedural law.
6. The legal representation of joint owners against whom an action is brought is the manager's responsibility or the responsibility of the person designated by the assembly to that effect.

ARTICLE 1355
(Arbitral commitment)
1. The assembly may establish the obligation to enter into arbitral commitments to solve litigations between joint owners, or between joint owners and the manager, and establish pecuniary penalties for failure to comply with the dispositions in this code, assembly deliberations, or manager decisions.
2. The amount of penalties applicable each year shall never exceed the fourth part of the yearly fraction collectable from the defaulter's income.

ARTICLE 1356
(Manager)
1. The manager is elected and dismissed by the assembly.
2. If the assembly does not elect a manager, he shall be appointed by the court upon request of any of the joint owners.
3. The court, upon request of any joint owner, may dismiss the manager where it is shown that he has practiced irregularities or acted with negligence while performing his or her duties.
4. The holding of the position of manager is remunerated and may be performed by either one of the joint owners or a third party; the term of office is, except provided otherwise, one year and renewable.
5. The manager shall hold this position until such a time as his or her successor is elected or appointed.

ARTICLE 1357
(Temporary manager)
1. If the joint owners' assembly does not elect the manager, and he is not judicially appointed, the corresponding duties shall have to be performed, on a temporary basis, by the joint owner whose fraction or fractions represent the greatest percentage of the capital invested, except if another joint owner has expressed his or her willingness to take the position and communicated such intention to the other joint owners.
2. When, in terms of the previous paragraph, there is more than one joint owner in the same circumstances, duties are the responsibility of the one to whom corresponds the first letter in the alphabetical order used in the description of fractions in the property tax.
3. As soon as a manager is elected or judicially appointed, the joint owner who, in terms of this article is responsible for the management, shall cease his or her functions and hand over to the manager all documents regarding the jointly owned property placed under his or her custody.

ARTICLE 1358
(Manager's duties)
The manager's duties shall include, in addition to others assigned by the assembly:
a) to convene the joint owners' assembly;
b) to prepare the revenue and expenditure budget for each year;
c) to check the existence of fire insurance, proposing to the assembly the amount of insured capital;
d) to charge revenues and make common expenses;
e) to require of the joint owners their share in approved expenses;
f) to perform notarial acts of rights related to common assets;
g) to regulate the use of common things and render services of common interest;
h) to execute assembly deliberations;
i) to represent the set of joint owners before administrative authorities;
j) to be accountable to the assembly;
l) to ensure the execution of the regulation and the legal and administrative provisions related to the jointly owned property;
m) to keep and maintain all documents regarding the jointly owned property.

ARTICLE 1359
(Manager's legitimacy)
1. The manager has legitimacy to act in court, whether against any of the joint owners or a third party, in the fulfilment of his or her duties or when authorized by the assembly.
2. The manager may be cited in proceedings related to the building's common parts.
3. Exception is made to proceedings related to matters of ownership or possession of common property, except if the assembly bestows special powers upon the manager to that effect.

ARTICLE 1360
(Appeal against manager's acts)
Manager's acts may be appealed against to the assembly, which, in this case, may be convened by the appealing joint owner.

ARTICLE 1361
(Horizontal ownership of building sets)
The regime provided for in this chapter may be applied, with the necessary adaptations, to sets of contiguous buildings functionally connected between themselves by existing common parts assigned to the use of all or some units or fractions comprising them.

TITLE III
USUFRUCT, USE, AND HABITATION

CHAPTER I
General dispositions

ARTICLE 1362
(Concept)
Usufruct is the right to temporarily and fully enjoy a third party's thing or right without changing its form or substance.

ARTICLE 1363
(Constitution)
Usufruct may be established by contract, will, acquisitive prescription, or provision of law.

ARTICLE 1364
(Simultaneous and successive usufruct)
Usufruct may be made in favour of one or more persons, simultaneously or successively, as long as they exist at the time the right of the first usufructuary becomes effective.

ARTICLE 1365
(Right to add)
Except stipulated otherwise, usufruct established by contract or will in favour of several persons together shall only consolidate into ownership following the death of the last survivor.

ARTICLE 1366
(Duration)
Without prejudice to the provisions of the previous articles, usufruct may not exceed the usufructuary's life; being constituted in favour of a legal person, either public or private, its maximum duration is of thirty years.

ARTICLE 1367
(Conveyance to a third party)
1. The usufructuary may convey to another person his or her right, definitively or temporarily, as well as encumber it, except for restrictions imposed by the title deed or by law.
2. The usufructuary is liable for the damage caused to things through fault of the person who replaces him.

ARTICLE 1368
(Usufructuary's rights and obligations)
The usufructuary's rights and obligations are regulated by the title deed of the usufruct; in case of absence or insufficiency thereof, the following provisions shall apply.

CHAPTER II
Usufructuary's rights

ARTICLE 1369
(Use, enjoyment, and management of a thing or right)
The usufructuary may use, enjoy, and manage the thing or right as a dutiful paterfamilias would do, taking into consideration its economic destination.

ARTICLE 1370
(Usufructuary's compensation)
The usufructuary, at the commencement of the usufruct, is not obliged to be liable to the owner for any expenses made; but, once the usufruct is over, the owner is obliged to compensate the usufructuary for expenses pertaining to cultivation, seeds or raw materials and, generally, for all production expenses incurred by the usufructuary, up to the value of the fruits that might be harvested.

ARTICLE 1371
(Disposal of fruits before harvest)
If the usufructuary has disposed of the fruits before harvest and the usufruct lapses before they are harvested, the disposal persists, but its proceeds belong to the owner, once the compensation referred to in the previous article has been deducted.

ARTICLE 1372
(Scope of usufruct)
The usufruct comprises all things added and all rights inherent in the thing which is the object of usufruct.

ARTICLE 1373
(Betterments and amenities)
1. The usufructuary has authority to make betterments and build amenities deemed appropriate in the thing which is the object of usufruct, provided that its form or substance, or its economic destination, remains unchanged.
2. The prescriptions contained herein in respect of a bona-fide possessor shall apply to the usufructuary, with regards to betterments and amenities.

ARTICLE 1374

(Usufruct of consumable things)

1. Where the object of the usufruct are consumable things, the usufructuary may either use or dispose of them, but he is obligated to restitute their value, at the end of the usufruct, in case the things have been estimated; if they have not been estimated, restitution shall be made by delivering other things of the same kind, quality or quantity, or of the same value as the latter under the circumstances in which the usufruct ends.
2. The usufruct of consumable things does not imply property transfer to the usufructuary.

ARTICLE 1375

(Usufruct of perishable things)

1. If the usufruct comprises things that, though not consumable, are, however, susceptible to deterioration caused by use, the usufructuary is not obliged to do more than restitute them at the end of the usufruct as they are, unless they have been deteriorated through use other than the intended one or as a result of the usufructuary's fault.
2. If the usufructuary fails to hand them over, he shall be liable for the value the things had under the circumstances in which the usufruct began, except if he proves that they lost all their value through legitimate use.

ARTICLE 1376

(Natural perishing of trees and shrubs)

1. The usufructuary of trees or shrubs may make use of those perishing naturally.
2. However, in the case of fruitful trees or shrubs, the usufructuary is obliged to plant as many stems as those that naturally perish or replace such crop with another equally useful for the owner, if it is impossible or harmful to renew plants of the same kind.

ARTICLE 1377

(Accidental perishing of trees and shrubs)

1. Trees or shrubs that fall or that are removed or broken by accident belong to the owner, without prejudice to the provision of paragraph 2 of the following article, in the case of bushes or trees meant for felling.
2. The usufructuary may, however, apply these trees and shrubs to repairs that he is obliged to carry out, or demand that the owner removes them, thus clearing the ground.

ARTICLE 1378

(Usufruct of bushes and trees meant for felling)

1. The usufructuary of bushes or any isolated trees that are intended for logging or firewood shall, when removing plants, comply with the order and practices used by the owner or, in the absence thereof, with the use of the land.
2. If, as a result of a cyclone, fire, State requisition, or other similar causes, the usufructuary's regular enjoyment is considerably undermined, the owner shall compensate him up to the limit of interest of the amount corresponding to the value of the dead trees, or up to the limit of interest of the amount received.

ARTICLE 1379
(Usufruct of nursery plants)
The usufructuary of nursery plants is obliged to comply, when removing plants, with the owner's order and practices or, in the absence thereof, with the use of the land, both concerning the time and the way of removing plants, as well as in respect of the time and the way of replenishing the nursery.

ARTICLE 1380
(Mining exploitation)
1. The usufructuary of a mining concession shall, when undertaking mining activities, comply with the practices followed by the respective holder.
2. The usufructuary of land plots where there are mining sites is entitled to amounts due to the landowner, whether as rental or otherwise, in proportion to the duration of the usufruct.

ARTICLE 1381
(Quarry exploitation)
1. The usufructuary may not re-open quarries without the owner's consent; however, if they are already being exploited at the time when the usufruct commences, the usufructuary has authority to exploit them, complying with the practices followed by the owner.
2. This prohibition does not prevent the usufructuary from extracting rock from the ground for repairs or works that he is obliged to perform.

ARTICLE 1382
(Water exploitation)
1. The usufructuary may, for the benefit of the property which is the object of usufruct, search for underground water by means of wells, mines, or other excavations.
2. The betterments referred to in the previous paragraph are subject to the provisions set forth herein regarding a bona-fide possessor.

ARTICLE 1383
(Establishment of easements)
1. Regarding the establishment of active easements, the usufructuary enjoys the same rights as the owner, but he may not take obligations exceeding the duration of the usufruct.
2. The owner may not establish easements without the usufructuary's consent, provided that they result in a decrease in the usufruct value.

ARTICLE 1384
(Treasures)
If the usufructuary finds any treasure in the thing which is the object of usufruct, the provisions set forth herein regarding those who find treasures in someone else's property shall be complied with .

ARTICLE 1385

(Usufruct of universalities of animals)

1. If the usufruct is comprised of a universality of animals, the usufructuary is obliged to replace with offspring the animals that, for any reason, might be missing.
2. If all or some of the animals go missing due to a fortuitous event, without producing others to replace them, the usufructuary is obliged to hand over only the remaining animals.
3. In this case, however, the usufructuary is liable for the animals' remains where he has made use of such remains.

ARTICLE 1386

(Usufruct of income for life)

The usufructuary of income for life has the right to receive installments corresponding to the duration of the usufruct, without being obliged to any refund.

ARTICLE 1387

(Usufruct of interest-bearing capital)

1. The usufructuary of capital earning interest or any other benefit, or invested in securities, has the right to receive the fruits corresponding to the duration of the usufruct.
2. Capital may not be withdrawn or invested without the agreement of both holders; in case of disagreement, consent can be obtained in court, from either the owner or the usufructuary.

ARTICLE 1388

(Usufruct of cash and usufruct of capital withdrawn)

1. If a certain amount is the object of usufruct, or where capital is withdrawn during the course of the usufruct in terms of the previous article, the usufructuary has authority to manage such sums at his or her discretion, provided that he provides the required guarantee; in this case, the usufructuary is liable for the risk of forfeiting the amount which is the object of usufruct.
2. If the usufructuary does not wish to exercise his or her authority, paragraph 2 of the preceding article shall apply.

ARTICLE 1389

(Awards and other random utilities)

The usufructuary of securities has the right to enjoy awards and other random utilities produced by the title.

ARTICLE 1390

(Usufruct of equity securities)

1. The usufructuary of shares or equities has the right to:
a) Profits distributed corresponding to the duration of the usufruct;
b) Vote in the general assembly, except in respect of deliberations that entail amending the statutes or dissolving the corporation;
c) Benefit from sums which, in the act of liquidating the corporation or the share of capital thereof, are the equities which the usufruct concerns.
2. In deliberations that entail amending the statutes or dissolving the corporation, the vote belongs jointly to both the usufructuary and the original holder.

CHAPTER III
Obligations of the usufructuary

ARTICLE 1391
(Bonds and assets list)

Before taking care of the assets, the usufructuary shall:
a) List them, with the owner's citation or assistance, declaring their state, as well as the value of movable property, if any;
b) Provide a guarantee, if required, for both the restitution of assets or the respective value, in the case of consumable assets, and the repair of deteriorations that the assets might suffer as a result of the usufructuary's fault, or for payment of any other compensation due.

ARTICLE 1392
(Waiver of guarantee)

A guarantee is not required of the alienator with a usufruct reserve and may be waived in the title deed of the usufruct.

ARTICLE 1393
(Lack of guarantee)

1. If the usufructuary fails to provide the required guarantee, the owner has authority to demand that the real property be either leased or put into receivership, that the movable property be either sold or handed over to him, that the capital, as well as the amount of sale prices, be either put out to interest or employed in nominative credit instruments, that bearer papers be either converted into nominative instruments or deposited with a third party, or that other appropriate measures be taken.
2. In the absence of an agreement with the usufructuary regarding the disposal of assets, the court shall decide.

ARTICLE 1394
(Works and improvements)

1. The usufructuary is obliged to give consent to the owner regarding any works or improvements that the thing which is the object of usufruct is susceptible to undergo, including any new plantations, if the usufruct concerns land property, provided that the owner's actions do not result in a decrease in the usufruct value.
2. Of works or improvements carried out, the usufructuary has the usufruct right without being obliged to pay interest on amounts released by the owner or any other compensation; if, however, such works or improvements increase the net income of the thing which is the object of usufruct, such increase belongs to the owner.

ARTICLE 1395

(Ordinary repairs)

1. Both the indispensable ordinary repairs to preserve the thing and management expenses are the responsibility of the usufructuary.
2. Repairs that, in the year they are required, exceed two thirds of the net income of such year are not considered as ordinary.
3. The usufructuary may exonerate himself or herself from repairs or expenses to which he is obliged by waiving the usufruct.

ARTICLE 1396

(Extraordinary repairs)

1. With respect to extraordinary repairs, the usufructuary is responsible only for timely advising the owner so that, if the latter so wishes, such repairs can be commissioned; if, however, they have become necessary due to the usufructuary's poor management, the provisions set forth in the previous article shall apply.
2. If the owner, after being advised, does not arrange for these extraordinary repairs, and such repairs are of real usefulness, the usufructuary may carry them out at his or her own expenses and claim the amount expended, or the payment of the value that they have at the end of the usufruct, if such value is below the cost.
3. If the owner makes the repairs, the provisions of paragraph 2 of article 1394 shall be complied with.

ARTICLE 1397

(Taxes and other yearly charges)

Payment of taxes and any other yearly charges on the income of the assets which are the object of usufruct is the responsibility of the usufruct holder on the due date.

ARTICLE 1398

(Harmful acts committed by third parties)

The usufructuary is obliged to warn the owner about any act committed by a third party, which he is aware of, that might encroach upon the owner's rights; if the usufructuary fails to do so, he shall be liable for any damages that might occur .

CHAPTER IV
Lapse of usufruct

ARTICLE 1399
(Causes for lapse)

1. The usufruct lapses:
a) Upon the usufructuary's death or at the end of the duration of the right granted, when the usufruct is not perpetual;
b) When the usufructuary and the owner are one and the same person;
c) When the right of usufruct is not exercised for twenty years, whatever the reason;
d) Due to a total loss of the thing which is the object of usufruct;
e) By means of a waiver.
2. The waiver does not require the owner's acceptance.

ARTICLE 1400
(Usufruct up to a certain age of a third person)
The usufruct granted to someone until a certain age of a third person shall last for the pre-established years, even if the third party dies before the said age, except if the usufruct had been granted only in connection with the existence of such third person.

ARTICLE 1401
(Partial loss and "*rei mutatio*")
1. If the thing or right which is the object of usufruct is only partially lost, the usufruct in the remaining part thereof continues.
2. The provision of the preceding paragraph shall be applicable in case the thing becomes another thing that still has value, though with a different economic purpose.

ARTICLE 1402
(Destruction of properties)
1. If the usufruct is established on town property and the latter is destroyed for whatever reason, , the usufructuary has the right to enjoy the land and the remaining materials.
2. The original owner may, however, reconstruct the property, occupying the land and using the materials, provided that he pays the usufructuary, during the usufruct, interest corresponding to the value of the same land and materials.
3. The provisions of the previous paragraphs shall be equally applicable if the usufruct is established on land property which the destroyed property forms part thereof.

ARTICLE 1403
(Compensations)
1. If the thing or right which is the object of usufruct is lost, deteriorates or has its value decreased, and the owner is entitled to compensation, the usufruct starts falling on the compensation.
2. The provision of the preceding paragraph shall be applicable to compensation resulting from expropriation or requisition of the thing or right, to compensation due to the lapse of the right of superficies, to the redemption price of the rent, and to other similar cases.

ARTICLE 1404
(Insurance of destroyed thing)
1. If the usufructuary has made an insurance of the thing or paid premiums for an insurance already made, the usufruct is transferred to the compensation owed by the insurer.
2. As far as a building is concerned, the owner may rebuild it, transferring, in this case, the usufruct to the new building; if, however, the sum expended in rebuilding it is higher than the compensation received, the usufructuary's entitlement shall be proportional to the compensation.
3. Where premiums are paid by the owner, the compensation due belongs wholly to the latter.

ARTICLE 1405
(Bad use by the usufructuary)
The usufruct shall not lapse, even if the usufructuary makes bad use of the thing which is the object of usufruct; but if the abuse becomes considerably harmful to the owner, the owner may demand that the thing be handed over to him or that the measures provided for in article 1393 be taken, being the owner obliged, in the first case, to yearly pay the usufructuary the thing's net proceeds after the expenses and the premium adjudicated to him in connection with the management thereof have been deducted.

ARTICLE 1406
(Restitution of the thing)
At the end of the usufruct, the usufructuary shall restitute the thing to the owner, without prejudice to the provisions relating to consumable things, exception made to cases where a lien can be invoked.

CHAPTER V
Use and habitation

ARTICLE 1407
(Concept)
1. The right to use consists in the authority to make use of a certain thing owned by someone else and get fruits therefrom, in proportion to the needs of either the holder or his or her family.
2. Where this right refers to a dwelling house, it is called dwelling right.

ARTICLE 1408
(Establishment, lapse, and regime)
The right to use and the dwelling right are established and lapse in the same way as the usufruct, without prejudice to the provision of article 1213, subparagraph b), and are equally regulated by their title deed; in the lack or insufficiency of the latter, the following provisions shall be complied with.

ARTICLE 1409
(Determination of personal needs)
The user's or tenant's personal needs are determined according to their social condition.

ARTICLE 1410
(Family scope)
The user's or tenant user's family is comprised of only the spouse, with no judicial separation of persons and assets, single children, other relatives to whom food is due, and people who, living with the respective holder, are in his or her service or in the service of designated people.

ARTICLE 1411
(Non-transferability of right)
The user and the tenant user may not transfer or lease their right, nor may they otherwise encumber it.

ARTICLE 1412
(Obligations inherent in the use and dwelling)
1. If the user consumes all the fruits of the property or occupies the entire property, he shall be liable for ordinary repairs, management expenses, and yearly charges and taxes, as if he were a usufructuary.
2. If the user receives only part of the fruits or occupies only part of the property, he shall assist in paying for the expenses mentioned in the preceding paragraph in proportion to his or her enjoyment.

ARTICLE 1413
(Application of usufruct norms)
The provisions regulating the usufruct shall apply to the right to use and the dwelling right where they are in conformity with the nature of such rights.

TITLE IV
RIGHT OF SUPERFICIES

CHAPTER I
General provisions

ARTICLE 1414
(Concept)
The right of superficies consists in the authority to build or keep, perpetually or temporarily, a work in a third party's plot of land or to make or keep plantations therein.

ARTICLE 1415
(Object)
1. Having as object the construction of a work, the right of superficies may comprise a part of the land not required for the erection thereof, provided that it is of use for the work.
2. The right of superficies may have as object the construction or maintenance of a work under someone else's soil.

ARTICLE 1416

(Right to build on someone else's building)

The right to build on someone else's building is subject to the provisions of this title and the limitations imposed on the establishment of horizontal property ownership; once the building is built, the horizontal property regime shall apply, and the builder shall become a joint owner of the parts referred to in article 1341.

ARTICLE 1417

(Right of superficies established by state or public legal entities)

The right of superficies established by the state or public legal entities on land of their private domain is subject to special legislation and, subsidiarily, to the provisions of this code.

CHAPTER II

Establishment of right of superficies

ARTICLE 1418

(General principle)

The right of superficies may be established by contract, will, or acquisitive prescription and may result from the disposition of an already existing work or trees, separately from land ownership.

ARTICLE 1419

(Easements)

1. The establishment of the right of superficies entails establishing the easements required to use and enjoy the work or trees; if the place and other conditions for the exercise of easements are not indicated in the title deed, these shall, in the absence of an agreement, be determined by the court.
2. The coercive establishment of a passage easement on a third party's building is only possible if, on the date when the right of superficies was established, the building on which this right falls was already land-locked.

CHAPTER III

Owner and tenant rights and obligations

ARTICLE 1420

(Price)

1. While establishing the right of superficies, it may be agreed upon, as a price, that the tenant pays a one-off installments or that he pays a perpetual or temporary yearly installments.
2. The temporary payment of a yearly installments is compatible with the perpetual establishment of the right of superficies.
3. Installments are always paid in cash.

ARTICLE 1421

(Interest on late payment of yearly installments)

In case of installments default, the landowner may demand three times as much the installments due.

ARTICLE 1422
(Enjoyment of land before commencement of work)
Pending the commencement of the work construction or the tree plantation, the use and enjoyment of the surface belongs to the landowner, who, however, may not prevent or further encumber the construction or plantation.

ARTICLE 1423
(Enjoyment of subsoil)
The use and enjoyment of the subsoil belong to the owner, who is, however, liable for any damages caused to the tenant resulting from the exploitation thereof.

ARTICLE 1424
(Transferability of rights)
The right of superficies and the right of ownership may be transferred by an act *inter vivos* or by death.

ARTICLE 1425
(Preference right)
1. The landowner enjoys the preference right, ultimately, in the sale or transfer of the right of superficies in lieu of payment; however, where the property incorporated into the land has an emphyteutic lease, the preference right of the owner prevails.
2. The provisions of articles 351 to 353 and 1330 shall be applicable to the preference right.

CHAPTER IV
Lapse of right of superficies

ARTICLE 1426
(Cases involving lapse)
1. The right of superficies lapses:
a) If the tenant fails to finish the work or make the plantation within the established period of time or, if a period of time is not established, within a ten years' time;
b) If, in the case of destruction of the work or trees, the tenant fails to rebuild the work or renew the plantation within the same deadlines, counting from the date of destruction;
c) After the expiry of deadline, where it is comprised of a certain time period;
d) Where the right of superficies and the right of ownership are held by the same person;
e) Where the land disappears or becomes useless;
f) Through expropriation of property in the public interest.
2. The title deed may also stipulate the lapse of the right of superficies as a result of the destruction of the work or trees or under any resolutive condition.
3. Prescription rules shall apply to the right of superficies in the cases provided for in paragraph 1, subparagraphs a) and b).

ARTICLE 1427

(Default in paying yearly installments)

1. Default in paying yearly installments during twenty years extinguishes the obligation to pay them, but the tenant does not acquire the ownership of the land, except in the case of acquisitive prescription in his or her favour.
2. Prescription rules shall apply to the extinguishment of the obligation to pay installments.

ARTICLE 1428

(Extinguishment by lapse of time)

1. Where the right of superficies is established by a certain period of time, the landowner acquires ownership over the work or trees as soon as such period of time lapses.
2. Except if stipulated otherwise, the tenant is, in this case, entitled to compensation, calculated according to the rules of enrichment without cause.
3. Where no compensation is due, the tenant is liable for deteriorations in the work or the plantations, if such deteriorations are due to his or her own fault.

ARTICLE 1429

(Extinguishment of rights in rem over the right of superficies)

1. The extinguishment of the right of superficies due to the lapse of a set period of time entails the extinguishment of the rights in rem of enjoyment or guarantee established by the tenant for the benefit of a third party.
2. However, if the tenant is due to receive compensation in terms of the previous article, such rights are transferred into the compensation, according to the provisions set forth in the relevant sections.

ARTICLE 1430

(Rights in rem established by the owner)

Rights in rem established by the owner over the soil cover the work and trees acquired in terms of article 1428.

ARTICLE 1431

(Permanence of rights in rem)

Upon extinguishment of the perpetual right of superficies, or the temporary one before the lapse of time, the rights in rem established over the surface or over the soil shall continue to separately encumber the two plots of land as if there were no extinguishment, without prejudice to the application of the provisions of the preceding articles as soon as the period of time lapses.

ARTICLE 1432

(Extinguishment by expropriation)

Upon extinguishment of the right of superficies as a result of expropriation in the public interest, the compensation shall be shared by each holder proportionately to the value of their respective right..

TITLE V
PROPERTY EASEMENTS

CHAPTER I
General dispositions

ARTICLE 1433
(Concept)

A property easement is the charges imposed on a property for the exclusive benefit of another property belonging to a different owner; servient tenement refers to the property which is subject to the easement and dominant tenement refers to the property which benefits from the easement.

ARTICLE 1434
(Content)

Any facilities may be the object of easement, whether they are not yet in place or are likely to be built, by being susceptible of enjoyment through the dominant tenement, even if they do not add value thereto.

ARTICLE 1435
(Inseparability of easements)

1. Save the exceptions provided by law, easements may not be separated from the property where they actively or passively belong.
2. The assignment of facilities comprising the easement to another property shall always entail establishing a new easement and extinguishing the old one.

ARTICLE 1436
(Indivisibility of easements)

Easements are indivisible: if the servient tenement is divided amongst several owners, each portion is subject to the part of the easement where it belonged; if the dominant tenement is divided, each co-owner has the right to use the easement without any changes or modifications.

CHAPTER II
Establishment of easements

ARTICLE 1437
(General principles)

1. Property easements may be established by contract, will, acquisitive prescription, or by the father of a family.
2. Legal easements may, in the absence of voluntary establishment thereof, be established by a court order or administrative determination, as the case may be.

ARTICLE 1438
(Establishment by acquisitive prescription)

1. Easements that are not apparent may not be established by acquisitive prescription.
2. Not apparent easements are considered to be those which do not display visible and permanent signs.

ARTICLE 1439

(Establishment by the father of a family/paterfamilias)

If in two properties of the same owner, or in two fractions of a single property, there is a visible and permanent sign(s), posted on one or both of them, showing easement of one in relation to the other, such sign(s) shall be construed as proof of easement when, with regard to the domain, both properties, or both fractions of the same property, become separated, except if at the time of separation something else has been declared in the respective document.

CHAPTER III

Legal easements

SECTION I

Legal passage easements

ARTICLE 1440

(Easement for benefit of land-locked property)

1. Owners of properties with no access to a public road or with no conditions allowing for the establishment of such access, without causing major inconveniencies or incurring major expenses, may require that passage easements be established on abutting land properties.
2. The provision of the preceding paragraph is also applicable to an owner who does not have insufficient access to a public road through his or her or a third party's land.

ARTICLE 1441

(Possibility of avoiding the granting of easements)

1. Owners of fenced farms, yards, gardens or fields adjacent to town property may exonerate themselves from granting passage by acquiring the land-locked property at its fair value.
2. If no agreement is reached, the price shall be determined by the court; where there are two or more interested owners, a bidding process shall be initiated amongst them and the surplus shall revert in favour of the seller.

ARTICLE 1442

(Voluntary land-locking)

1. The owner that, without a justa causa, causes an absolute or relative land-lock of the property may only establish the easement upon payment of aggravated damages.
2. Aggravated damages are determined on the basis of the owner's fault, up to twice as much the one that would normally be due.

ARTICLE 1443

(Place where easement is established)

Passage shall be granted through the property or properties that suffer less damage, and by the mode and through the place less inconvenient to the encumbered properties.

ARTICLE 1444

(Damages)

Where a passage easement is established, damages shall be payable in proportion to the harm caused.

ARTICLE 1445

(Preference right in disposing of land-locked property)

1. The owner of a property encumbered with a legal passage easement, irrespective of the title deed thereof, has the preference right in case of sale, transfer in lieu of payment or lease of the dominant tenement.
2. The provisions of articles 351 to 353 and 1330 are applicable to this case.
3. Where the right of preference is held by two or more persons, a bidding process shall be initiated amongst them and the surplus shall revert in favour of the seller.

ARTICLE 1446

(Passage easements for water exploitation)

1. When, for domestic use, the owners do not have access to public fountains, wells, and reservoirs intended for such use, as well as to water currents in the public domain, passage easements may be established under the applicable terms of the previous articles.
2. Such easements shall be established only after making sure that the owners claiming them cannot have enough water from another source, without causing major inconveniencies or incurring major expenses.

SECTION II

Legal water easements

ARTICLE 1447

(Water exploitation for household consumption)

1. When it is not possible for the owner, without causing major inconveniencies or incurring major expenses, to obtain water for his or her household consumption as indicated in the previous article, neighbouring owners may be compelled to allow, through compensation, for the exploitation of the remaining waters from their fountains or reservoirs to the extent indispensable for such consumption.
2. Town property and other property referred to in article 1441, paragraph 1,are exempt from easement.

ARTICLE 1448

(Water exploitation for agricultural purposes)

1. The owner who does not have nor can obtain, without causing major inconveniencies or incurring major expenses, enough water to irrigate his or her property may exploit waters from neighbouring property, which are not being made use of , by paying the fair value thereof.
2. The provision of the previous paragraph is not applicable to waters coming from a concession nor does it allow for the exploitation of underground waters in someone's property.

ARTICLE 1449

(Legal embankment easement)

Proprietors and owners of industrial establishments with right to use private waters existing in someone else's property may carry out in such property the works required to dam and derive water therefrom through payment of the corresponding compensation for damage caused.

ARTICLE 1450

(Legal embankment easement for exploitation of public waters)

1. An embankment easement for the exploitation of public waters may only be coercively imposed in the following cases:

a) When the proprietors or owners of industrial establishments located on the banks of a non-navigable or floatable water current may only exploit the water they are entitled to by building an embankment, dike or similar works bordering on the neighbouring property;

b) When the water has been the object of a concession.

2. In the case of subparagraph 1(a) above and in the case of a concession in the private interest, contiguous dwelling houses, yards, gardens or fields are not subject to easement; in the case of a concession in the public interest, such property shall only be subject to a charge if in the respective administrative proceeding it is proved to be materially or economically impossible to execute the works without using them.

3. In the case of subparagraph 1 (b), the easement is deemed to have been established as a result of the concession, but compensation shall, if no agreement is reached, be determined by the court.

4. If the owner of the neighbouring property, which is subject to land-locking easement, wishes to use the work erected, he may make it common property by proving he has the right to use the water and paying part of the expenses proportionately to the benefits he gets.

ARTICLE 1451

(Legal aqueduct easement)

1. For the sake of agriculture or industry or for household consumption, everyone is allowed to lay down pipes, whether underground or on the surface, to carry the private waters to which they are entitled, through someone else's land property other than yards, gardens or fields contiguous to dwelling houses, by way of compensation for damage caused to such property as a result of the work performed; fenced farms shall be subject to the charge only when the aqueduct is built underground.

2. The owner of the servient tenement is, at all times, also entitled to compensation for damage caused by water leakage or eruption or the deterioration of the works done to carry such waters.

3. Nature, direction, and the shape of the aqueduct shall be the most convenient for the dominant tenement and the least burdensome for the servient tenement.

4. If the owner of the aqueduct does not need all the water , and the owner of the servient tenement wants to receive a share of the water surplus, such a share shall , at all times, be granted to him through prior compensation, including payment of the amount proportional to the expenses incurred in the construction of the aqueduct to the point from where he wishes to collect the water.

ARTICLE 1452

(Legal aqueduct easement for exploitation of public waters)

1. In order to exploit public waters, the establishment of a forced aqueduct easement shall be allowed only where there is a water concession.

2. The provisions of article 1450, paragraphs 2 and 3, are applicable to this easement.

ARTICLE 1453
(Legal drainage easement)

1. Forced establishment of a drainage easement is allowed, preceded by compensation for damage caused:
a) When, as a result of human activity, and for agricultural or industrial purposes, there is a water fountain in some property or waters are carried thereto from another property;
b) When there is the intention to give a determined direction to waters that used to follow their natural course;
c) With respect to waters coming from gutters, false pipes, ditches, trenches, channels or any other mode of draining water from properties;
d) When there is a concession of public waters in respect of the surplus thereof.
2. The provisions of article 1311 are applicable to owners encumbered with a drainage easement.
3. In paying compensation, the benefits that the servient tenement might derive from the use of water shall be taken into account, in terms of the previous paragraph; and, in the case of paragraph 1, subparagraph b), damage that already resulted from the natural course of the waters shall be taken into consideration.
4. Only properties that may be encumbered with a legal aqueduct easement are subject to drainage easement.

CHAPTER V
Exercise of easements

ARTICLE 1454
(Mode of exercise)

With respect to extent and exercise thereof, easements are regulated by their respective title; if the title is insufficient, the provisions of the following articles shall apply .

ARTICLE 1455
(Extent of easement)

1. An easement right comprises all that is necessary for the use and preservation thereof.
2. In case of doubt regarding the extent or mode of exercise, the easement shall be deemed to have been established in order to meet the normal and predictable needs of the dominant tenement with the least damage to the servient tenement.

ARTICLE 1456
(Works in servient tenement)

1. The owner of the dominant tenement may do works in the servient tenement within the powers vested in him under the previous article, provided that such works do not further encumber the easement.
2. The works shall be done within the timeframe and in the manner that suit the owner of the servient tenement best.

ARTICLE 1457
(Work charges)
1. The works are done at the expense of the owner of the dominant tenement, except if another regime has been agreed upon.
2. Where there are different dominant tenements, all the owners are obliged to contribute to the cost of the works in proportion to the benefits they derive from the easement; and they may only exonerate themselves from such liability by waiving the easement in favour of the others.
3. If the owner of the servient tenement also makes use of the easement, he is obliged to contribute in the manner established in the preceding paragraph.
4. If the owner of the servient tenement has undertaken to meet the cost of the works, he may only exonerate himself or herself from such liability by waiving his or her right of ownership in favour of the owner of the dominant tenement; the waiver may, in case the easement encumbers part of the property only, limit itself to that part; if the owner of the dominant tenement refuses to accept the waiver he does not, nevertheless, exonerate himself or herself from meeting the cost of the works.

ARTICLE 1458
(Shifting the easement's location)
1. The owner of the servient tenement may not disrupt the use of the easement but may, however, at all times, demand that the easement be shifted to a location other than the one previously assigned or to another property, if the shift in location suits him and does not affect adversely the interests of the owner of the dominant tenement, provided that the move is done at his or her own cost; with the consent of a third party the location of the easement may be shifted to the property of the latter.
2. The shift in location may also occur at the request and at the expense of the owner of the dominant tenement, if advantages are to be derived therefrom and the shift in location does not prejudice the owner of the servient tenement.
3. The manner and the duration of the exercise of the easement shall also be altered at the request of any of the owners, provided that the requirements referred to in the previous paragraphs are complied with.
4. The authority bestowed under this article may neither be waived nor limited by legal transaction.

CHAPTER V
Extinguishment of easements

ARTICLE 1459
(Cases subject to extinguishment)

1. Easements are extinguished:
a) When the two tenements, dominant and servient, , become the ownership of the same person;
b) When they are not used for twenty years, whatever the reason;
c) When the property is released by acquisitive prescription;
d) By waiver;
e) By lapse of time, if established on a temporary basis.
2. Easements established by acquisitive prescription shall be declared extinguished by the court, at the request of the owner of the servient tenement, provided that they prove to be unnecessary to the dominant tenement.
3. The provision of the preceding paragraph is applicable to legal easements, whatever the title thereto: if compensation has been paid it shall be refunded, wholly or in part, as the case may be.
4. Easements referred to in articles 1447 and 1448 may also be redeemed by the court, if the owner of the servient tenement shows his or her intention to make warranted use of the water; the previous provision shall apply to the refund of compensation but redemption may not, however, be demanded before ten years have elapsed since the establishment of the easement .
5. The waiver referred to in paragraph 1, subparagraph d) does not require acceptance by the owner of the servient tenement.

ARTICLE 1460
(Deadline for extinguishment of an easement by non-use)

1. The deadline for extinguishing an easement by non-use counts from the moment in which they stopped being used; with regard to easements for whose exercise is not required the human fact, time counts from the occurrence of any fact that prevents the exercise thereof.
2. With respect to easements exercised at time intervals, time counts from the day on which they could have been exercised, but the exercise was not restarted.
3. If the dominant tenement belongs to several owners, the use that one of them makes of the easement prevents the extinguishment in relation to the others.

ARTICLE 1461
(Impossibility of exercise)

The impossibility of exercising the easement does not imply its extinguishment, as long as the time referred to in article 1459, paragraph 1, subparagraph b), does not lapse.

ARTICLE 1462
(Partial exercise)

The easement does not cease to be considered as fully exercised when the owner of the dominant tenement enjoys only part of the inherent benefits.

ARTICLE 1463
(Exercise at a different time)
The exercise of the easement at a time other than the one set in the title does not prevent the extinguishment thereof by non-use, without prejudice to the possibility of acquiring a new easement by prescription.

ARTICLE 1464
("Usucapio libertatis")
1. The release of property by acquisitive prescription may occur only when there is, on the part of the owner of the servient tenement, opposition to the exercise of the easement..
2. The deadline for prescription starts counting only from the opposition.

ARTICLE 1465
(Easements established by an usufructuary)
Active easements acquired by the usufructuary are not extinguished by termination of the usufruct.

BOOK IV
FAMILY LAW

TITLE I
GENERAL PROVISIONS

ARTICLE 1466
(Sources of legal relationships amongst family members)
Marriage, consanguinity, affinity, and adoption are sources of legal relationships amongst family members.

ARTICLE 1467
(Concept of marriage)
Marriage is the contract entered into by two persons of different genders who intend to constitute family by means of full cohabitation, pursuant to the provisions of this Code.

ARTICLE 1468
(Concept of consanguinity)
Consanguinity is the bond connecting two people as a consequence of one of them descending from the other or both coming from a common parent.

ARTICLE 1469
(Family elements)
Consanguinity is determined by generations linking relatives one to the other: each generation creates a degree, and a series of degrees constitutes the family relationship.

ARTICLE 1470
(Family relationships)
1. A straight line is said to exist when one of the relatives descends from the other; a collateral line is said to exist when none of the relatives descends from the other, but both come from a common parent.
2. A straight line is either descending or ascending: it is descending when it is considered as coming from the ascendant to the one that comes from her/him; it is called ascending when it is considered as coming from the descendant to the parent.

ARTICLE 1471
(Counting of degrees)
1. In the straight line, there are as many degrees as people forming the family relationship, excluding the parent.
2. In the collateral line, degrees are counted likewise, ascending through one of the branches and descending through the other, but without counting the common parent.

ARTICLE 1462
(Limits of consanguinity)
Except as otherwise provided by law, the effects of consanguinity are produced in any degree of the straight line and up to the sixth degree in the collateral line.

ARTICLE 1473
(Concept of affinity; elements and termination)
1. Affinity is the bond connecting each of the spouses to the relatives of the other.
2. Affinity is determined by the same degrees and lines defining consanguinity and it is not terminated by dissolution of marriage.

ARTICLE 1474
(Concept of adoption)
Adoption is the bond that, like natural parentage, but irrespective of the bonds of blood, is legally established between two people in terms of article 1853 and subsequent articles.

TITLE II
ON MARRIAGE

CHAPTER I
Modalities of marriage

ARTICLE 1475
(Civil, catholic, and bride-price based monogamic marriage)
1. Marriage is either civil, catholic, or bride-price based monogamic.
2. Civil law recognises value and efficacy of marriage in catholic matrimony and in bride-price based monogamic marriage, pursuant to the following provisions.

ARTICLE 1476
(Effects of catholic marriage)
Catholic marriage is governed, with respect to civil effects, by the common norms of this code, except as otherwise provided.

ARTICLE 1477
(Duality of marriage)
1. Catholic marriage entered into by people who are already bound by undissolved civil marriage is registered in the entry book, irrespective of the prior publication of banns.
2. Civil marriage of two people united by previous catholic matrimony is not allowed.

ARTICLE 1478
(Bride-price based monogamic marriage)
1. Bride-price based monogamic marriage is that which is entered into between people of different genders in accordance with the customs and usage of a certain region.
2. Bride-price based monogamic marriage is governed, with respect to effects, by the common norms of this code, except as otherwise provided.

ARTICLE 1479
(Urgent marriages)
An urgent marriage entered into without the presence of a clerk of the civil registry, Catholic Church minister or community authority is considered either civil, catholic or bride-price based monogamic marriage as per the parties' intention expressly manifested or inferred from the formalities adopted, the betrothed's beliefs, or any other elements.

CHAPTER II
Marriage promises

ARTICLE 1480
(Inefficacy of promises)
A contract whereby two persons of different genders undertake, as engaged couple or in any other capacity, to contract matrimony does not give the right to either demand that marriage be entered into or claim, if the promise is not fulfilled, compensations other than those provided for in article 1483, even when resulting from a penal clause.

ARTICLE 1481
(Restitutions, in cases of incapacity and retraction)
1. If marriage is not entered into due to incapacity or retraction of one of the promising parties, each of them is obliged to restitute the donations the other or a third party has made due to the promises and in the expectation of marriage, in accordance with the terms prescribed for nullity or annullability of the legal transaction.
2. The obligation to restitute comprises letters and personal portraits of the other contracting party, but not things that have been consumed before the retraction or the occurrence of incapacity.

ARTICLE 1482
(Restitution in case of death)
1. If marriage does not happen due to the death of one of the promising parties, the surviving promising party may keep the deceased's donations, but, in this case, he shall forfeit the right to demand, on his or her part, the restitution of those that he has made.
2. The same promising party may retain the deceased's correspondence and personal portraits and demand the restitution of those the deceased has received from him.

ARTICLE 1483
(Compensations)
1. If any of the contracting parties breaks the promise for no good reason, or through fault of his or her own, gives ground for the other party to retract, he shall compensate the innocent spouse, as well as his or her parents or third parties that have acted in the parents' behalf, for both the expenses incurred and the obligations contracted in anticipation of marriage.
2. Equal compensation is due when marriage does not happen because of incapacity of one of the contracting parties, if he or his or her representatives have acted deceitfully.
3. Compensation is determined at the court's prudent discretion by taking into account, in its calculation, not only the extent to which the expenses and obligations are deemed reasonable, in view of the circumstances surrounding the case and the condition of the contracting parties, but also the advantages that might, apart from marriage, still be granted to one another.

ARTICLE 1484
(Time limit within which to bring action)
The right to demand the restitution of donations or compensation lapses within one year of the date on which the promise was broken or the promising party passed away.

CHAPTER III
Assumptions about marriage

SECTION I
Catholic marriage and bride-price based monogamic marriage

ARTICLE 1485
(Civil capacity)
Only those with the matrimonial capacity required by civil law may enter into catholic marriage and bride-price based monogamic marriage

ARTICLE 1486
(Preliminary process)
1. The betrothed couple's matrimonial capacity is attested by means of a prior publication of banns, organized in a civil registrar's office at the request of the betrothed couple or the respective parish priest.
2. The consent of the parents or guardian, in relation to an underage betrothed, may be given in the presence of two witnesses before the parish priest or community authority, depending on whether the marriage is catholic or bride-price based monogamic marriage, who shall prepare an occurrence report and sign it together with all the other stakeholders.
3. The consent referred to in the previous paragraph may also be directly given in a civil registrar's office.

ARTICLE 1487
(Matrimonial capacity certificate)
1. If the final rule issued on the preliminary process indicates that there is no impediment to marriage, the civil registrar shall extract therefrom the matrimonial capacity certificate, which shall be sent out to the betrothed or the parish priest, and without such a certificate the marriage may not be entered into.
2. If, after the certificate has been sent out, the registrar comes to know of any impediment, he shall immediately communicate it to the betrothed or the parish priest in order to put marriage on hold until judgment is passed thereon .

ARTICLE 1488
(Waiver of preliminary process)
1. Marriage "*in articulo mortis*" may be entered into, when child delivery is imminent or the immediate performance of the marriage ceremony is expressly authorized by the parish priest for a serious reason of a moral nature, irrespective of the prior publication of banns and the issuance of the betrothed couple's matrimonial capacity certificate.
2. When there is grounded fear that one of the betrothed is about to die or child delivery is imminent, bride-price based monogamic marriage is allowed to take place, irrespective of the prior publication of banns and the issuance of the betrothed's matrimonial capacity certificate.
3. A waiver of the preliminary process does not change civil law requirements with respect to the betrothed's matrimonial capacity, and they shall remain subject to sanctions under the same law.

SECTION II
Civil Marriage

SUBSECTION I
Matrimonial impediments

ARTICLE 1489
(General rule)
Every person on whom none of the impediments provided by law falls is capable of contracting marriage.

ARTICLE 1490

(Absolute diriment impediments)

Diriment impediments, which prevent the person on whom they fall from contracting marriage, are as follows:

a) Age below sixteen years;

b) Noticeable dementia, even during lucid intervals, and interdiction or incapacity due to a mental disorder;

c) Undissolved previous marriage, either catholic or civil, even if the relevant record has not been lodged with the civil registrar's office.

ARTICLE 1491

(Relative diriment impediments)

The following impediments are also diriment, preventing marriage between the persons on whom they fall:`

a) Straight-line consanguinity;

b) Second degree of consanguinity in the collateral line;

c) Straight-line affinity;

d) Previous conviction of one of the betrothed, as an agent or accomplice, for murder, even if not consummated, against the spouse of the other.

ARTICLE 1492

(Proof of maternity or paternity)

1. Proof of maternity or paternity for the purpose of applying the provisions of subparagraphs a), b), and c) of the preceding article is always permitted in the prior publication of banns, but the acknowledgement of consanguinity, either in relation to this process or in a lawsuit of annulment or nullity of marriage, bears no other effect and is not even valid as an initial proof in an action aimed at ascertaining maternity or paternity.

2. Exception is made to the use of ordinary means for the purpose of declaring the inexistence of any impediment in a suit filed against the persons who would have legitimacy to make a petition for declaration of nullity or annulment of marriage based on the impediment which has been acknowledged.

ARTICLE 1493

(Impeding impediments)

In addition to others referred to in special laws, impending impediments include:

a) Lack of parents' or guardian's authorization for an underage betrothed to marry, when not provided by the civil registrar;

b) Internuptial period;

c) Third degree of consanguinity in the collateral line;

d) Bond of guardianship, trusteeship, or legal management of assets;

e) Accusation of a betrothed in connection with murder, even if not consummated, against the spouse of the other, as long as the case is not dismissed on the basis of a final decision.

ARTICLE 1494

(Period during which a widow(er) is not allowed to marry again)

1. The impediment arising from the period within which a widow(er) is allowed to marry again prevents the marriage of the party whose previous marriage was dissolved, declared void, or annulled, as long as one hundred and eighty or three hundred days have not elapsed since the dissolution, declaration of nullity or annulment, depending on whether the person concerned is a man or a woman.

2. However, the woman may contract a new marriage after one hundred and eighty days if she obtains a judicial declaration that she is not pregnant or if she has had a child after the dissolution, declaration of nullity or annulment of the previous marriage; if the spouses were judicially separated from persons and assets and the marriage is dissolved by the death of the husband, the wife may enter into a second marriage after one hundred and eighty days have elapsed from the date on which the final sentence of separation was pronounced by the court, if she obtains a judicial declaration that she is not pregnant or if she has had a child after such date.

3. In case of a catholic marriage declared void or dissolved by waiver, time counts from the date on which the decision issued by the ecclesiastical authorities was recorded; in case of divorce or annulment of a civil marriage, or of bride-price based monogamic marriage, time counts from the date on which the final decision was issued.

ARTICLE 1495

(Cessation)

1. The impediment arising from the internuptial period ceases if the time limits referred to in the previous article have already elapsed from the date set in the divorce sentence on which the spouses' cohabitation came to an end or, in case of conversion of the judicial separation of persons and assets into divorce, from the date the final sentence of separation was passed .

2. The impediment ceases even if the marriage is dissolved by the death of one of the spouses, in case the latter are judicially separated from persons and assets, when the time limits set forth in the previous paragraphs have already elapsed since the date the final sentence was passed.

ARTICLE 1496

(Bond of guardianship, trusteeship, or legal management of assets)

The bond of guardianship, trusteeship, or legal management of assets prevents the marriage of the incapable party to the guardian, trustee, or manager, or his or her relatives or the like in the straight line, brothers, brothers-in-law, or nephews and nieces, as long as one year has not elapsed from the end of incapacity and the respective accounts have not been approved, if any.

ARTICLE 1497

(Waiver)

1. The following impediments are susceptible to waiver:

a) Third degree of consanguinity in the collateral line;

b) Bond of guardianship, trusteeship, or legal management of assets, if the respective accounts are already approved;

2. A waiver is the responsibility of the civil registrar, who shall grant it when there are serious reasons to justify the celebration of marriage.

3. If either of the betrothed parties is underage, the registrar shall hear the parents or guardian, whenever possible.

SUBSECTION II
Prior publication of banns

ARTICLE 1498
(Need and end of process of publication of banns)
The celebration of marriage is preceded by a publication of banns, regulated by civil registration laws and intended to ascertain the inexistence of impediments.

ARTICLE 1499
(Declaration of impediments)
1. Until the celebration of marriage, any person may declare the impediments he is aware of.
2. Declaration is mandatory for the Office of the Public Prosecutor and for the Civil Registrar's Office as soon as they become aware of the impediment.
3. Once the declaration is made, the marriage shall only be celebrated if the impediment ceases, if it is waived in terms of article 1497, or if it is found inadmissible in a final judgment.

ARTICLE 1500
(Parents' or guardian's authorization)
1. Authorization for the marriage of a minor under the age of 17 years and above the age of 16 years shall be granted by the parents exercising parental authority or by the guardian.
2. The civil registrar may grant the authorization referred to in the preceding paragraph if there are any reasons of sufficient weight to justify the celebration of marriage and the minor has sufficient physical and mental maturity.

ARTICLE 1501
(Final judgment)
Once the preliminary process and the subsequent court proceedings are over, it is incumbent upon the civil registrar to pronounce a final judgment in which he shall either authorize the betrothed to celebrate the marriage or have the case dismissed.

ARTICLE 1502
(Deadline for celebration of marriage)
Once the marriage is authorized to take place, it shall be celebrated within ninety days.

CHAPTER IV
Celebration of civil marriage and of bride-price based monogamic marriage

SECTION I
General Provisions

ARTICLE 1503
(Publicity and solemnity)

1. The celebration of marriage is public and follows the solemnities established by civil registration laws.

2. The celebration of the bride-price bases monogamic marriage is public and takes place as follows:

a) Oral proclamation in that the marriage conducted by the *Li-Nains* of both betrothed shall take place;
b) Express or tacit declaration by each of the betrothed;
c) Drafting of the marriage record on a common sheet of paper.

ARTICLE 1504
(People who must intervene)

It is indispensable that marriage be celebrated in the presence of:
a) The contracting parties, or either of them and the attorney of the other;
b) The civil registrar;
c) Two witnesses, as and when required by civil registration law;
2. It is indispensable that the bride-price based monogamic marriage be celebrated in the presence of:

a) The contracting parties;
b) The respective *Lian-Nains*, who preside over the ceremony;
c) The community authorities;
d) At least two adult or fully emancipated witnesses.

ARTICLE 1505
(Timeliness of mutual consent)

The will of the betrothed is relevant only when expressed in the very act of marriage.

ARTICLE 1506
(Acceptance of the effects of marriage)

1. The will to contract marriage implies acceptance of all legal effects of matrimony, without prejudice to the legitimate stipulations by the spouses in a prenuptial agreement.
2. The clauses whereby the betrothed, in a prenuptial agreement, at the time when marriage is celebrated or in any other act, intend to modify the effects of marriage or subject it to certain terms and conditions or to the pre-existence of a fact, are construed to be in an unwritten form.

ARTICLE 1507
(Personal nature of mutual consent)
The will to contract marriage is strictly personal with respect to each of the betrothed.

ARTICLE 1508
(Marriage by proxy)
1. Either of the betrothed may be represented by an attorney in the celebration of marriage.
2. The power of attorney shall contain special powers for the act, the express designation of the other betrothed, and the indication of the modality of marriage.

ARTICLE 1509
(Revocation and lapse of the power of attorney)
1. All effects of the power of attorney cease with the revocation thereof, with the death of the grantor or attorney, or with the interdiction or incapacity of either of them as a result of a mental disorder.
2. The grantor may, at all times, revoke the power of attorney, but he is liable for any damage he might cause if, through fault of his or her own, he fails to do so in such a timely manner as to avoid the celebration of marriage.

SECTION II
Urgent marriages

ARTICLE 1510
(Celebration)
1. When there is grounded fear that either of the betrothed is about to die or that child delivery is imminent, the celebration of marriage is allowed, irrespective of the prior publication of banns and without the intervention of the civil registrar.
2. A temporary record of the urgent marriage is drawn up as matter of procedure.
3. The civil registrar is obliged to draw up the temporary record, provided that the minutes of the urgent marriage are submitted to him or her, to that effect, under the conditions prescribed by civil registration laws.

ARTICLE 1511
(Endorsement of marriage)
1. Once the temporary record has been drawn up, the registrar shall decide whether the marriage should be endorsed.
2. If it has not yet been conducted, the process of publication of banns is organized as a matter of procedure and the decision on the endorsement of marriage shall be issued in the final judgment of such process.

ARTICLE 1512
(Causes for non-endorsement)
1. Marriage may not be endorsed:
a) If the requirements established by law are not complied with or if the formalities prescribed for the celebration of an urgent marriage and the drawing up of the respective temporary record have not been followed;
b) If there are serious indications that such requirements or formalities are assumed or false;
c) If there is any diriment impediment;
d) If the marriage has been considered as catholic by the ecclesiastical authorities and transcribed as such;
e) If the marriage has been considered as bride-price based monogamic by community authorities and transcribed as such;
2. If the marriage is not endorsed, the temporary record shall be cancelled.
3. The spouses or their heirs, as well as the Public Prosecution Service, may appeal to the court against a judgment which denies the endorsement, in order to have the validity of the marriage declared.

CHAPTER V
Invalidity of marriage

SECTION I
Catholic marriage

ARTICLE 1513
(Competence of ecclesiastical courts)
Knowledge of the causes regarding the nullity of catholic marriage and the waiver of acknowledged and unconsummated marriages is reserved for competent ecclesiastical courts and offices.

ARTICLE 1514
(Process)
1. Decisions made by ecclesiastical courts and offices, when definitive, are submitted to the Supreme Court of Apostolic Signature, for verification, and then transmitted, through diplomatic channels, together with the decrees issued by such court, to the Supreme Court of Justice, which shall render them enforceable, irrespective of review and confirmation, and shall have them recorded in the Civil Registrar's Office.
2. An ecclesiastical court may request a court of law to cite or notify the parties, experts or witnesses, as well as to conduct proceedings of a probative or other nature.

SECTION II
Bride-price based monogamic marriage

ARTICLE 1515
(Invalidity of bride-price based monogamic marriage)
The invalidity of the bride-price based monogamic marriage is governed by the norms of this Code which are applicable to the invalidity of civil marriage, with the necessary adaptations.

SECTION III
Civil Marriage

SUBSECTION I
General provision

ARTICLE 1516
(Validity rule)

A civil marriage is valid when in relation to which none of the causes for inexistence of legality, or annullability, specified in the law occur.

SUBSECTION II
Inexistence of marriage

ARTICLE 1517
(Inexistent marriages)

1. It is legally inexistent:

a) A marriage celebrated before someone who did not have functional competence for the act, except in the case of urgent marriage;

b) An urgent marriage that has not been endorsed;

c) A marriage in whose celebration a declaration of will of one or both betrothed parties, or of the attorney of one of them, was missing;

d) A marriage contracted through an attorney when celebrated after the effects of the power of attorney have ceased or when the latter has not been granted by the person referred to therein as the grantor, or when it is void due to failure to either grant special powers for the act or expressly designate the other contracting party;

e) A marriage contracted by two persons of the same gender.

2. However, a marriage celebrated before a person who, without having functional competence for the act, publicly exercised the corresponding functions, is not considered as legally inexistent, except if both betrothed parties were, at the time when the marriage was celebrated, aware of the lack of such competence.

ARTICLE 1518
(Non-existence regime)

1. A legally non-existent marriage bears no legal effect and is not even considered as putative.

2. No-existence can be invoked by any person, at all times, irrespective of a judicial declaration.

SUBSECTION III
Annullability of marriage

DIVISION I
General provisions
ARTICLE 1519
(Causes for annullability)

A marriage is annullable if:
a) Contracted with some diriment impediment;
b) Celebrated, by one or both betrothed parties, with lack of will or with the will vitiated by error or duress;
c) Celebrated without the presence of witnesses when required by law.

ARTICLE 1520
(Need for annulment action)

The annullability of marriage may not be invoked for any effect, either judicial or extrajudicial, as long as it is not acknowledged by a sentence in an action specifically filed to that end.

ARTICLE 1521
(Marriage validation)

1. The nullity is considered to have been remedied, and the marriage validated, from the moment the marriage was celebrated, if, before the judgment of annulment has become final, one of the following facts occurs:
a) the marriage of a minor below the marriageable age is confirmed by the latter before a clerk of the civil registry and two witnesses, after he or she reaches the age of majority;
b) the marriage of an interdicted or incapacitated person suffering from mental disorder is confirmed by him, in terms of the preceding subparagraph, after such interdiction or incapacitation has been lifted from him or, in the case of noticeable dementia, after the person suffering from dementia has had his or her mental condition verified by the court;
c) the first marriage of the bigamist is declared null and void;
d) the lack of witnesses is due to justifiable circumstances, such as those recognized by the Justice Minister, as long as there is no doubt as to the celebration of the act.
2. The provision of article 278, paragraph 2, is not applicable to marriage.

DIVISION II
Unwillingness or will-related faults

ARTICLE 1522
(Presumption of will)

A declaration of will, in the act of marriage, constitutes a presumption not only that the betrothed parties wanted to contract matrimony, but also that their will is not vitiated by error or duress.

ARTICLE 1523
(Annullability due to lack of will)
Marriage is annullable due to lack of will:
a) When the betrothed, at moment of the celebration of marriage, was not aware of the act he was performing due to accidental incapacity or other cause;
b) When the betrothed was mistaken about the physical identity of the other contracting party;
c) When the declaration of will has been extorted by physical coercion;
d) When it has been simulated.

ARTICLE 1524
(Will vitiated by error)
An error vitiating one's will is relevant only for the purpose of annulment when it falls on essential qualities of the person of the other spouse, is excusable, and shows that, without it, the marriage would not reasonably have been celebrated.

ARTICLE 1525
(Moral coercion)
1. A marriage celebrated under moral coercion is annullable, provided that the harm the betrothed is illegally threatened with is serious and the fear that it might be consummated is warranted.
2. The fact that someone, knowingly and illegally, extorts from the betrothed the declaration of will by promising to set him free from an accidental harm or a harm caused by someone else shall be rendered equivalent to an illegal threat.

DIVISION III
Legitimacy

ARTICLE 1526
(Annulment based on diriment impediment)
1. The spouses or any of their relatives in straight line or up to the fourth degree in the collateral line, as well as heirs and adopters of the spouses, and the Public Prosecution Service, may file an annulment suit based on diriment impediment or proceed with it.
2. Besides the persons mentioned in the previous paragraph, a guardian or trustee, in case of minority, interdiction or incapacitation due to mental disorder, and the first spouse of the offender, in case of bigamy, may also file a suit, or proceed with it.

ARTICLE 1527
(Annulment based on lack of will)
1. Annulment due to simulation may be requested by the spouses themselves or by any persons adversely affected by the marriage.
2. In the remaining cases of lack of will, an annulment suit may only be filed by the spouse whose will was lacking; but their blood relatives or relatives by affinity in the straight line, heirs or adopters may proceed with the suit if the author dies while the case is pending.

ARTICLE 1528
(Annulment based on will-related faults)
An annulment suit based on will-related faults may only be brought by the spouse who was a victim of error or coercion; however, his or her blood relatives or relatives by affinity in the straight line, heirs or adopters may proceed with the suit if the author dies while the case is pending.

ARTICLE 1529
(Annulment based on lack of witnesses)
An annulment suit due to lack of witnesses may only be filed by the Public Prosecution Service.

DIVISION IV
Time limits

ARTICLE 1530
(Annulment based on diriment impediment)
1. An annulment suit based on diriment impediment shall be filed:
a) In cases of minority, interdiction or incapacitation due to mental disorder or noticeable dementia, when brought by the incapacitated person himself or herself, up to six months after the age of majority is reached, the interdiction or incapacitation is lifted or dementia has ceased; when brought by someone else, within three years following the celebration of marriage, but never after the age of majority is reached , the incapacitation is lifted or dementia has ceased.
b) In case of conviction for murder against the spouse of one of the betrothed parties, within three years of the date on which the marriage was celebrated;
c) In other cases, up to six months after the dissolution of marriage.
2. The Public Prosecution Service may file the suit only until the dissolution of marriage.
3. Without prejudice to the time limit set in paragraph 1, subparagraph c), an annulment suit based on the existence of an undissolved, previous marriage may not be brought or proceed while the declaration of nullity or annulment of the bigamist's first marriage is pending.

ARTICLE 1531
(Annulment based on lack of will)
An annulment suit based on lack of will on the part of one or both betrothed parties may only be filed within three years months after the celebration of marriage or, if the marriage was ignored by the requesting party, within six months following the date on which he became aware of it.

ARTICLE 1532
(Annulment based on will-related faults)
An annulment suit based on will-related faults lapses if it is not filed within six months after the faults cease.

ARTICLE 1533
(Annulment based on lack of witnesses)
An annulment suit based on lack of witnesses may only be filed within one year after the celebration of marriage.

CHAPTER VI
Putative marriage

ARTICLE 1534
(Effects of marriage declared null and void)

1. An annulled civil marriage, when contracted in good faith by both spouses, produces its effects in relation to them and third parties until the respective sentence becomes final.
2. If only one of the spouses has contracted the marriage in good faith, only this spouse may claim the benefits of matrimonial state and oppose them to third parties, as long as, relatively to these, it is a mere reflection of the relations that existed between the spouses.
3. A catholic marriage declared null by the courts and ecclesiastical offices produces its effects, in terms of the previous paragraphs, until the decision is recorded, provided that it is transcribed in the civil registrar's office.
4. An annulled bride-price based monogamic marriage produces its effects in terms of paragraphs 1 and 2 of this article, until the respective sentence becomes final.

ARTICLE 1535
(Good faith)

1. Good faith is deemed to be the spouse who has contracted marriage in excusable ignorance of the defect causing nullity or annullability, or whose declaration of will has been extorted by physical or moral coercion.
2. State courts shall have exclusive competence to ascertain good faith.
3. The good faith of the spouses is presumed.

CHAPTER VII
Special sanctions

ARTICLE 1536
(Marriage of minors)

1. A minor who marries without obtaining his or her parents' or guardian's authorization, or the respective judicial supply, continues to be considered a minor with regard to the management of the assets that s/he brings into the marriage or that s/he might subsequently acquire gratuitously until s/he reaches the age of majority, but the alimony awards arising from his or her status shall be adjudicated to him or her from the proceeds of such assets.
2. Assets subtracted from the minor's management are managed by his or her parents, guardian or trustee, and shall under no circumstance be placed under the other spouse's management during the minority of his or her partner; furthermore, they shall not be liable, either before or after the dissolution of marriage, for debts contracted by either or both spouses in the course of the same period.

ARTICLE 1537
(Marriage with diriment impediment)

1. A person who contracts a new marriage without respecting the inter-nuptial period forfeits all property that he or she has received as gifts or through the will of his or her first spouse.
2. A breach of the provisions contained in subparagraphs c), d) and e) of article 1493 will result, respectively, for the uncle or aunt, guardian, trustee or trustee or blood relatives or relatives by affinity in straight line, siblings, brothers-in-law or nephews, and, for the adopting person, his or her spouse or relatives in straight line, in the inability to receive from his or her partner any benefit through donation or will.

CHAPTER VIII
Registration of marriage

SECTION I
General provisions

ARTICLE 1538
(Marriages subject to registration)

1. Registration is compulsory

a) For marriages entered into in Timor-Leste in any of the forms provided for by Timorese law;
b) For marriages of a Timorese person or persons entered into abroad;
c) For marriages of foreigners who, after entering into the marriage, acquire Timorese nationality.
2. Registration, at the request of an individual who demonstrates a legitimate interest therein, of any other marriages that do not contradict the fundamental principles of international public order of the Timorese State, is also permitted.

ARTICLE 1539
(Form of registration)

Registration of the marriage consists of a record drawn up by registration or transcription, in compliance with the registration laws.

ARTICLE 1540
(Proof of marriage for registration purposes)

1. In a legal action to cater for the omission or loss of a marriage registration, this is presumed to exist whenever the individuals are or have been married.
2. They are considered to possess marital status when the following conditions are cumulatively met:
a) The persons live as a married couple;
b) They are considered as such in social relationships, particularly within their respective families.

SECTION II
Registration by transcription

SUBSECTION I
General provisions

ARTICLE 1541
(Cases of transcription)

The following are drawn up by transcription:

a) Records of catholic or bride-price based monogamic marriages celebrated in Timor-Leste;

b) Records of any form of urgent marriage provided for in this legal instrument and entered into in Timor-Leste;

c) Records of catholic or civil marriages entered into by Timorese persons abroad, or by foreigners who acquire Timorese nationality;

d) Records drawn up in compliance with a court order;

e) Records of marriages accepted for registration, at the request of the interested parties under the terms of paragraph 2 of article 1538;

f) Records of marriages which are required to be entered into the books of a department other than that in which they were originally drawn up.

SUBSECTION II
Transcription of catholic and bride-price based monogamic marriage entered into in Timor-Leste

ARTICLE 1542
(Transmission of duplicate or certificate of record)

1. In the case of a catholic marriage celebrated in Timor-Leste, the parish priest shall send a duplicate of the parish record to the civil registrar's office, for transcription into the marriage record book.

2. For marriages the immediate celebration of which has been authorized by the parish priest, a copy of the authorization is sent with the duplicate, authenticated by the signature of the parish priest.

3. The community authority that witnesses the celebration of a bride-price based monogamic marriage is obligated to send a duplicate of the marriage deed to the competent registry office.

ARTICLE 1543
(Exemption from transmission of duplicate)

The obligation to transmit the duplicate is not applicable:

a) To marriages of conscience, the record of which is only transcribed before the registration certificate and by means of notice by the parish priest, in addition to marriages entered into under the terms of article 1488 of this Code and which cannot be transcribed;

b) To marriages in which, immediately after the entering into thereof, the need to validate the act arises by renewing the expression of the willingness of the spouses in the canonical form; only the duplicate of the parish record of the new marriage is required to be submitted to the civil registry department, where applicable.

ARTICLE 1544
(Refusal to transcribe a catholic marriage)

1. Transcription of a catholic marriage shall be refused:
a) If the official to whom the duplicate is sent is not competent;
b) If the duplicate or certificate of the parish record does not contain the indications required by law or the proper signatures;
c) If the official has justified doubts as to the identity of the contracting parties;
d) If at the time the marriage is entered into, some diriment impediment to the marriage is enforceable;
e) If, in the case of a marriage that may be legally entered into without the prior publication of banns, at the time the marriage is entered into there is an impediment due to absence of legal marriage age, impediment due to interdiction or incapacitation due to a mental disorder recognised in a judicial judgment which has become final or an undissolved previous civil marriage, provided that, in either case, the impediment still exists.
2. In no case does the death of one or both spouses impede the transcription.
3. Refusal to transcribe is communicated to the betrothed couple, in person or by registered letter and shall be subject to appeal.

ARTICLE 1545
(Refusal to transcribe a bride-price based monogamic marriage)

1. Transcription of a bride-price based monogamic marriage is refused in the following cases:
a) If the Civil Registry Department to which the duplicate of the deed was sent is not competent;
b) If the duplicate does not comply with the formalities required by law;
c) If at the time the marriage is entered into some diriment impediment provided for by civil law is enforceable.
2. The death of one or both members of the betrothed couple does not impede transcription.
3. Refusal to transcribe is communicated to the betrothed couple, in person or by registered letter and shall be subject to appeal.

ARTICLE 1546
(Transcription in the absence of banns)

If a catholic marriage or pride-price based monogamic marriage has not been preceded by the publication of banns, transcription may only take place after this process has been organized.

ARTICLE 1547

(Execution of transcription)

1. The parish priest is notified of the transcription of the duplicate or of the certificate of the parish record of a catholic marriage.
2. The betrothed couple is notified of the transcription of the duplicate of the certificate of a bride-priced based monogamic marriage.

3 In the case of failure to transmit the duplicate or certificate of the parochial record by the parish priest, or the duplicate of the marriage certificate by the community authority, the transcription may, at all times, be made in view of the necessary document, at the request of any interested party or of the Office of the Public Prosecutor.
2. Absence of the parish record or duplicate of the marriage certificate may be remedied by means of legal action.

ARTICLE 1548

(Execution of transcription following refusal)

A transcription refused on the basis of diriment impediments which are enforceable shall be executed as a matter of procedure or at the initiative of the Public Prosecution Service or any interested party as soon as it the impediment that gave rise to the refusal no longer exists.

ARTICLE 1549

(Rectification and validation of catholic marriages)

1. Rectification of a null but transcribed catholic marriage is recorded in the margin of the respective record by means of communication by the parish priest, made in the interest of the spouses and with the consent of the parish priest of the location where the marriage was celebrated.
2. In the case of simple validation of a null but transcribed marriage brought into effect through renewed declaration of intention of both spouses in the canonical form, the parish priest will draw up a new record and will send a duplicate thereof to the civil registry services within five days, to be transcribed there under the general terms.
3.Once the transcription has been made, the first record of the validated marriage is annulled, without prejudice to the rights relative to third parties.

SUBSECTION III

Transcription of urgent civil marriages

ARTICLE 1550

(Contents of record)

A legal order endorsing an urgent civil marriage shall establish the contents of the record, in accordance with the provisional registration, attached documents and diligences made.

ARTICLE 1551
(Transcription)

1. Transcription is made on the basis of the endorsement order and only the normal registration elements are transferred to the record, in addition to a reference as to the special nature of the transcribed marriage.
2. A transcription shall be cancelled, if the marriage is considered catholic by the ecclesiastical authorities and, as such, is already transcribed, without prejudice to the rights relative to third parties.

SUBSECTION IV
Transcription of marriages of Timorese persons abroad

ARTICLE 1552
(Consular registration)

A marriage between Timorese persons, or between a Timorese person and a foreigner entered into outside the Country, is registered in the competent consulate, even if the marriage results in loss of Timorese nationality for the betrothed Timorese person.

ARTICLE 1553
(Form of registration)

1. The registration is drawn up by inscription if the marriage is entered into in the presence of a Timorese diplomatic or consular agent, and, in other cases, by transcription of the documentary evidence of the marriage drawn up in compliance with the law of the location where the marriage was celebrated, and duly legalized.
2. Transcription can be requested at any time by any interested party, and must be promoted by the competent diplomatic or consular agent as soon as these are informed of the marriage.

ARTICLE 1554
(Banns)

1. If the marriage has not been preceded by the publication of banns required by law, the consul shall organize the respective process.
2. In the final order, the consul shall report on the diligences made and information received from the competent department, and shall decide as to whether the marriage may or may not be transcribed.

ARTICLE 1555
(Refusal to transcribe)

Transcription will be refused if, through banns or another form, the consul discovers that the marriage was entered into with an impediment that makes it annullable; in the case of a catholic marriage, the transcription shall only be refused under the same terms in which transcription of catholic marriages entered into in Timor-Leste may be made.

SUBSECTION V
Transcription of marriages accepted for registration

ARTICLE 1556
(Transcription process)

1. The registration of the marriages referred to in paragraph 2 of article 1538 is carried out by transcription on the basis of the documents that prove them, drawn up in accordance with the law of the location where the marriage was celebrated.
2. Registration may however only be made by means of proof that there has been no infringement of the fundamental principles of international public order of the Timorese State.

SECTION III
Effects of registration

ARTICLE 1557
(Credibility of marriage)

A marriage the registration of which is compulsory may not be invoked either by the spouses or their heirs or by third parties, while the respective record is not drawn up, without prejudice to the exceptions provided for in this code.

ARTICLE 1558
(Retroactive effect of registration)

1.Once a registration has been made, even if it is lost, the civil effects of the marriage are retroactive to the date on which it is entered into.
2. The rights of third parties that are compatible with the rights and duties of a personal nature of the spouses and children remain safeguarded however, except in the case of a catholic marriage entered into in Timor-Leste, the transcription of which was not carried out within seven days following the marriage.

CHAPTER IX
Effects of marriage on individuals and property of the spouses

SECTION I
General provisions

ARTICLE 1559
(Equality between spouses)

1. Marriage is based on equality of rights and duties between the spouses.
2. Management of the family falls on both spouses, who shall agree as to the orientation of their life together, taking into account the best interests of the family and the interests of the other spouse.

ARTICLE 1560
(Duties of spouses)

The spouses are reciprocally bound by the duties of respect, fidelity, cohabitation, cooperation and assistance.

ARTICLE 1561
(Family home)

1. The spouses shall choose the family home by mutual agreement, namely, taking into account the demands of their professional lives and the interests of the children, seeking to safeguard the unity of family life.
2. Except in the case of substantial reasons to the contrary, the spouses shall adopt the family home.
3. In the absence of agreement as to the establishment or moving of the family home, the court shall decide at the request of either spouse.

ARTICLE 1562
(Duty to cooperate)

The duty to cooperate implies, for the spouses, the obligation of mutual help and assistance and joint assumption of the responsibilities inherent to the family life that they have established.

ARTICLE 1563
(Duty to assist)

1. The duty to assist includes the obligation to supply food and to contribute to the responsibilities of family life.
2. The duty to assist is maintained during de facto separation if this is not imputable to either spouse.
3. If the de facto separation is imputable to one or both of the spouses, the duty to assist is only incumbent, in principle, upon the sole or principal culpable individual; the court may, however, exceptionally and for reasons of equity, impose this duty on the innocent or less culpable spouse, taking into consideration, in particular, the duration of the marriage and the contribution that the other spouse has supplied to the couple's economies.

ARTICLE 1564
(Duty to contribute to the responsibilities of family life)

1. The duty to contribute to the responsibilities of family life is a duty for both spouses, in line with the means of each, and can be made, by either applying their resources to these responsibilities and through work in the home or in the care and education of the children.
2. If the contribution of one of the spouses to the responsibilities of family life exceeds the part incumbent thereupon under the terms of the previous paragraph, waiver of the right to demand corresponding compensation from the other is presumed.
3. When the due contribution is not supplied, either spouse may demand that he or she be directly supplied with the part of the income or proceeds from the other stipulated by the court.

ARTICLE 1565
(Right to name)

1. Each spouse maintains his or her surnames, but may add the surnames of the other to a maximum of two.
2. The right granted in the second part of the previous paragraph may not be exercised by a party maintaining the surnames of a spouse from a previous marriage.

ARTICLE 1566

(Widowhood and remarriage)

A spouse who has added surnames of the other spouse to his or her name will maintain these in the case he or she is widowed and, if he or she so declares up until he or she enters into another marriage, even after this remarriage.

ARTICLE 1567

(Divorce and judicial separation of persons and assets)

1. When the judicial separation of persons and assets is decreed, each spouse maintains the surnames of the other that each has adopted; in the case of divorce, he or she may maintain them if the ex-spouse gives his or her permission or if the court so authorizes, taking into consideration the reasons invoked.
2. Permission of the ex-spouse may be granted by authentic or certified document, under terms drawn up in court or statement made in the presence of a clerk of the civil registry.
3. A request for legal authorization to use the surnames of the ex-spouse may be brought during the divorce proceedings or in separate proceedings, even after the divorce has been decreed.

ARTICLE 1568

(Legal deprivation of use of name)

1. When one of the spouses dies or when judicial separation of persons and assets or divorce is decreed, the spouse who maintains the surnames of the other may be deprived by court of the right to use them when the use thereof seriously damages the moral interests of the other spouse or of his or her family.
2. The other spouse or ex-spouse has the legitimacy to request deprivation of the use of his or her name, in case of judicial separation of persons and assets or divorce, and, in the case of widowhood, the descendants, ascendants and siblings of the deceased spouse.

ARTICLE 1569

(Practice of profession or other activity)

Each spouse may practise any profession or activity without the consent of the other.

ARTICLE 1570

(Management of the couple's property)

1. Each spouse shall manage his or her own property.
2. Each spouse shall also manage:

a) The proceeds received from his or her work;
b) Copyright;
c) Communal property brought by him or her into the marriage or acquired gratuitously after the marriage, in addition to any that is subrogated in the place of this;
d) Property that has been given or left to both spouses, with the exclusion of that to be managed by the other spouse, except in the case of property legitimately given or left to this other spouse;
e) Movable property owned by the other spouse or communally, for exclusive use by this spouse as a working tool;
f) Property owned by the other spouse, if this spouse is prevented from the management thereof for reasons of being in a remote or unknown location or for any other reason, and provided that power of attorney has not been granted to manage this property;
g) Property owned by the other spouse if this spouse grants this power to him or her by mandate.

3. Apart from the cases provided for in the previous paragraph, each spouse has the legitimacy to practise acts of ordinary management relative to the couple's common property; other managerial acts may only be practised with the consent of both spouses.

ARTICLE 1571

(Administrative measures)

A spouse not charged with management of property is not prevented from taking steps relative thereto if the other, for any reason, is unable to do so and damage might result from delaying such measures.

ARTICLE 1572

(Bank deposits)

Whatever the matrimonial property regime, each spouse may make bank deposits in his or her exclusive name and freely make transactions therein.

ARTICLE 1573

(Practice of management)

1. The spouse who manages communal property or property owned by the other spouse under the provisions of items a) to f) of paragraph 2 of article 1570 , is not obliged to account for such management but is answerable for acts practised intentionally to the detriment of the couple or of the other spouse.

2. When management of common property or property owned by the other for one of the spouses is based on a mandate, the rules of this contract are applicable, but, unless otherwise stipulated, the managing spouse shall only account for and hand over the respective balance, if any, relative to acts practiced during the last five years.

3. If one of the spouses embarks on management of property owned by the other or communal property, the management of which does not fall on him or her, without written mandate but with the knowledge and without the express opposition of the other spouse, the provisions of the previous paragraph shall apply; in the case of opposition, the managing spouse is answerable as having acted in bad faith.

ARTICLE 1574

(Disposal or encumbrance of moveable properties)

1. The disposal or encumbrance of communal moveable property, the management of which falls on both spouses requires the consent of both, except in the case of an act of ordinary management.

2. Each spouse has the legitimacy to dispose of or encumber, by an act inter vivos, the individual or communal moveable property under his or her management, in terms of paragraph 1 of article 1570 and items a) to f) of paragraph 2 of the same article, with the exception of the provisions set out in the following paragraphs.

3. Disposal or encumbrance of the following requires the consent of both spouses:

a) Moveable property used jointly by both spouses in domestic life or as a communal working instrument;

b) Moveable property belonging exclusively to the spouse who does not manage it, except for an act of ordinary management.

4. When one of the spouses, without the consent of the other, disposes of or encumbers, in a non-valuable transaction, the communal moveable property under his or her management, the value of the property disposed of or the amortisation value of the encumbered property shall be taken into consideration in the sharing thereof, except in the case of a gift in consideration of services rendered or gift according to social uses.

ARTICLE 1575

(Disposal or encumbrance of real estate and commercial establishment)

1. The following require the consent of both spouses, unless their matrimonial regime is that of separation of property:

a) Disposal, encumbrance, leasing or constitution of other personal rights on individual or communal real estate;

b) Disposal, encumbrance or rental of an individual or communal commercial establishment.

2. Disposal, encumbrance, leasing or constitution of other personal rights on the family home always requires the consent of both spouses.

ARTICLE 1576

(Provision of the right to lease)

Relative to the family home, the following require the consent of both spouses:

a) Resolution or termination of the rental contract by the tenant;

b) Rescission of the lease by mutual consent;

c) Assignment of the tenant's position;

d) Subletting or lending, wholly or in part.

ARTICLE 1577

(Acceptance of gifts and inheritances. Repudiation of inheritance or legacy)

1. Spouses do not require the consent of the other to accept gifts, inheritances or legacies.

2. Repudiation of an inheritance or legacy may only be made with the consent of both spouses, unless the matrimonial regime is that of separation of property.

ARTICLE 1578

(Form of matrimonial consent and provision thereof)

1. Matrimonial consent, in the cases in which this is legally required, shall be specific to each act.

2. The form of consent is that required for the power of attorney.

3. Consent may be provided by legal means in the case of unfair refusal or inability to grant it for any reason.

ARTICLE 1579

(Provisions for after death)

1. Each spouse has the right to dispose, for after his or her death, of his or her own property and his or her part of communal property, without prejudice to the restrictions imposed by law on behalf of the legitimate heirs.
2. Disposal the object of which is a certain and determined item of communal property only gives the individual in question the right to request the respective value in cash.
3. The thing may, however, be requested in kind:

a) If this, for any reason, has become the exclusive property of disposing party at the date of death;
b) If disposal has been previously officially authorized by the other spouse or in the will itself;
c) If the disposal has been made by one of the spouses to the benefit of the other.

ARTICLE 1580

(Sanctions)

1. Acts practised contrary to the provisions of paragraphs 1 and 3 of article 1574, articles 1575 and 1576 and in paragraph 2 of article 1577 are annullable at the request of the spouse who did not give consent or of his or her heirs, with the exception of the provisions set out in paragraphs 3 and 4 of this article.
2. The right to annulment may be exercised within six months following the date on which the claimant learnt of the act, but never more than three years following the performance thereof.
3. In the case of disposal or encumbrance of moveable property not subject to registration by only one of the spouses when the consent of both is required, annullability may not be enforced upon the party that acquires it in good faith.
4. In the case of disposal or encumbrance, without legitimacy, of property owned by the other spouse, the rules relative to disposal of someone else's property are applicable.

ARTICLE 1581

(Termination of personal and patrimonial relations between spouses)

Personal and patrimonial relations between the spouses cease through dissolution, declaration of nullity or annulment of the marriage, without prejudice to the provisions of this Code relative to alimony; in the case of judicial separation of persons and assets, the provisions set out in article 1672 shall apply.

ARTICLE 1582

(Partitioning between the couple. Payment of debts)

1. When patrimonial relations between the spouses cease, the spouses or their heirs receive their individual property and their part of common property, each spouse granting that which he or she owes to this property.
2. Should there be liabilities to be settled, communicable debts are paid in first place up to the value of communal property, and the remainder following this.
3. The credits of each spouse to the other are paid using the part in the communal property of the spouse in debt; however, if there is no communal property or if this is insufficient, the property owned by the spouse in debt shall be used.

SECTION II
Debts of spouses

ARTICLE 1583
(Legitimacy to contract debts)

1. Both husband and wife have the legitimacy to contract debts without the consent of the other spouse.
2. For determination of the spouses' responsibility, the debts contracted thereby shall be dated as of the date of the act that gave rise to them.

ARTICLE 1584
(Debts for which both spouses are liable)

1. Both spouses are liable:

a) For debts contracted before or after entering into the marriage, by both spouses or by one with the consent of the other;

b) For debts contracted by either spouse before or after entering into the marriage, in order to meet current expenses pertaining to family life;

c) For debts contracted within the marriage by the managing spouse to the common advantage of the couple and within the limits of his or her managerial powers;

d) For debts contracted by either spouse while doing business, unless it is proven that they were not contracted to the common advantage of the couple, or if there is a matrimonial regime of separation of property between the spouses;

e) For debts considered communicable under the terms of paragraph 2 of article 1586;

2. In the case of community of property regime, debts contracted by either spouse prior to the marriage to common advantage of the couple are also communicable.
3. Common advantage to the couple is not presumed, except in cases in which the law so declares.

ARTICLE 1585
(Debts for which only one spouse is liable)

The spouse concerned is exclusively liable for the following:

a) Debts contracted, before or after entering into the marriage, by each spouse without the consent of the other, except in the cases indicated in subparagraphs b) and c) of paragraph 1 of the previous article;

b) Debts originating from crimes and compensation, restitution, legal costs or fines due to facts imputable to each spouse unless these facts, implying merely civil liability, are covered by the provisions set out in paragraphs 1 or 2 of the previous article:

c) Debts the non-communicability of which results from the provision set out in paragraph 2 of article 1587.

ARTICLE 1586

(Debts that encumber gifts, inheritances or legacies)

1. The accepting spouse is exclusively liable for debts that encumber gifts, inheritances or legacies, even if these have been accepted with the consent of the other.
2. However, if, as a result of the matrimonial property regime adopted, the donated, inherited or bequeathed properties enter communal property, liability for the debts is joint, without prejudice to the right of the spouse of the acceptor to refute compliance on the basis that the value of the property is not sufficient to meet these liabilities.

ARTICLE 1587

(Debts that encumber certain and determined property)

1. The spouses are always jointly liable for debts that encumber communal property, whether they fall due before or after communication of property
2. Debts that encumber property owned by one of the spouses are his or her exclusive liability, unless brought about by the perception of revenue therefrom, which, under the applicable regime, are considered joint.

ARTICLE 1588

(Property answerable for debts for which both spouses are liable)

1. For debts for which both spouses are liable, the couple's communal property is answerable, and, in the absence or insufficiency thereof, jointly, the property owned by either spouse.
2. Under the regime of separation of property, the liability of the spouses is not joint and several.

ARTICLE 1589

(Property answerable for debts that are the exclusive responsibility of one of the spouses)

1. For debts for which one of the spouses is exclusively liable, the property owned by the spouse in debt and, subsidiarily, his or her part of communal property are answerable.
2. At the same time as property owned by the spouse in debt, the following however are answerable:

a) Property brought into the union or subsequently acquired gratuitously, including the respective profits;
b) Proceeds from the work and copyright of the spouse in debt;
c) Subrogated property in the place of that referred to in subparagraph a) above.

ARTICLE 1590

(Compensation owed for payment of the couple's debts)

1. When, for debts for which both spouses are liable, the property of only one spouse was answerable, this spouse becomes creditor of the other and thereby pays more than he or she was liable for; however this credit is only payable upon partitioning of the couple's property, except in the case of regime of separation of property.
2. Whenever communal property is answerable for debts for which only one spouse is exclusively liable, the respective amount is credited to the communal property upon partitioning of the property.

SECTION III
Prenuptial agreements

ARTICLE 1591
(Freedom to agree)

Spouses may, in a prenuptial agreement, freely establish the matrimonial regime relating to property, either by choosing any of the regimes contained in this code, or by stipulating that which is permitted to them in this respect, within the limits of the law.

ARTICLE 1592
(Restrictions on the principle of freedom)

1. The object of a prenuptial agreement may not be:

a) Regulation of the inheritance of the spouses or a third party, except for the provisions of the following articles.
b) Alteration of rights or obligations, whether paternal or matrimonial.
c) Alteration of rules as to the management of the couple's property;
d) Stipulation of the communicability of the property listed in Article 1626.

2. If the marriage is entered into by an individual who has children, even if these are adult or emancipated, the community of property regime cannot be agreed upon, nor can the communicability of the property referred to in paragraph 1 of Article 1615 be stipulated.

ARTICLE 1593
(Provisions considered permissible in the case of death)

1. The prenuptial agreement may contain:

a) Institution of an heir or appointment of a legatee in favour of either of spouse made by the other spouse or by a third party, under the terms prescribed in the respective places.
b) Institution of an heir or appointment of a legatee in favour of a third party, made by either of the spouses.

2. Also permissible within the prenuptial agreement are reversion and trust clauses relative to gifts made therein, without prejudice to the limitations to which such clauses are generically subject.

ARTICLE 1594

(Non-revocability of succession agreements)

1. The contractual institution of an heir and the appointment of a legatee made in a prenuptial agreement in favour of either spouse, whether by the other spouse or a third party, may not be unilaterally revoked following acceptance, nor is it permissible for the donor to negatively affect the donee through gratuitous acts of disposal; however these gifts, when given by a third party, may be revoked, at all times, by mutual agreement between the contracting parties.

2. In either case, following prior authorization of the donee, in writing or in the respective legal document, the donor may dispose of the donated property on the grounds of grave necessity relating to him or herself or members of his or her family.

3. Whenever the donation is made under the terms of the above paragraph, the donee shall become part of the succession of the donor as a legatee of the amount that the property donated was worth at the time of the donor's death, and this shall preferably be paid to the donor's legatees.

ARTICLE 1595

(Regime of contractual institution)

1. If the contractual institution in favour of either spouse has as its object an inherited amount, the calculation of that amount shall be made in terms of the property that the donor has gratuitously disposed of following the donation.

2. If the institution has as its object the entirety of the inheritance, the donor may gratuitously dispose of one third of the inheritance, whether alive or dead, calculated under the terms of the above paragraph.

3. It is permissible for the donor, in the act of making the donation, to waive, wholly or in part, the right to dispose of the one third portion of the inheritance.

ARTICLE 1596

(Lapse of succession agreements)

1. The contractual institution of a legatee in favour of either of the spouses lapses not only in the cases provided for in Article 1637, but also if the donee dies before the donor.

2. If, however, the donation at the time of death is made by a third party, it does not lapse on the death of the donee if the donor has legitimate surviving descendents, born from the marriage, who shall share in the succession relating to the property donated, in the place of the donee.

ARTICLE 1597

(Disposal by spouses in favour of third parties with testamentary character)

The institution of an heir and the appointment of a legatee by one of the spouses in the prenuptial agreement in favour of undetermined individuals, or in favour of a certain and determined individual who does not intervene in the act as acceptor, has merely testamentary value, and has no effects if the agreement expires .

ARTICLE 1598

(Provisions in the case of death in favour of a third party, with contractual character)

1. The institution of an heir and the appointment of a legatee by either spouse in favour of a certain and determined individual who intervenes in the act as acceptor in the prenuptial agreement is subject to the provisions of Articles 1594 and 1595, without prejudice to this having no effect if the agreement expires.
2. However, the institution or appointment may be freely revoked if the disposing individual has reserved this power for him or herself.
3. The non-revocability of the disposal does not exempt it from the general regime for revocation of donations based on ingratitude of the donee nor for deduction due to inofficious gifts.
4. The gifts to which this article refers lapse if the donee dies before the donor.

ARTICLE 1599

(Mutually respective nature of disposal upon death in favour of third parties)

1. If both spouses institute third parties as their heirs, or if they appoint legatees in their benefit, and these two disposals are recorded in the prenuptial agreement as being mutually respective, the invalidation or revocation of one of the disposals also renders the other invalid.
2. Provided one of the disposals begins to have effects, the other may not be revoked or altered unless the beneficiary of the first disposal renounces it, restoring however much he or she has received on the basis of the disposal.

ARTICLE 1600

(Revocability of reversion or trust clauses)

The reversion and trust clauses covered by Article 1593, paragraph 2 are freely revocable, at all times, by the donor of the gift.

ARTICLE 1601

(Capacity to enter into prenuptial agreements)

1. Anyone who has the capacity to enter into marriage has the capacity to enter into prenuptial agreements.
2. Minors, as well as individuals under interdiction or incapacitation, are permitted to enter into prenuptial agreements only with the authorization of the respective legal representatives.

ARTICLE 1602

(Annullability based upon lack of authorization)

Annullability of a prenuptial agreement due to lack of authorization may only be invoked by the incapacitated individual, by his or her heirs or by those empowered to do so, within a period of one year counting from the marriage date, and the annullability shall be regarded as remedied if the marriage is entered into after this incapacitation has ended.

ARTICLE 1603

(Form of prenuptial agreements)

Prenuptial agreements are valid only if they are entered into on the basis of a public deed or through an instrument drawn up before a clerk of the civil registry.

ARTICLE 1604

(Publication of prenuptial agreements)

1. Prenuptial agreements have effect only in relation to third parties after registration thereof.
2. The heirs of the spouses and of the other grantors of the deed are not considered to be third parties.
3. The registration of the agreement does not dispense with the land registration relative to the facts subject thereto.

ARTICLE 1605

(Revocation or modification of the prenuptial agreement prior to the marriage)

1. The prenuptial agreement is freely revocable or modifiable up to the date of marriage, provided that the revocation or modification is agreed to by all the individuals who are grantors or their respective heirs.
2. Any new agreement is subject to the requirements of form and publication established in the preceding articles.
3. The lack of intervention by some individuals who were grantors in the first agreement, or by the respective heirs, only has the effect of empowering them with the right to dissolve any clauses relating to them.

ARTICLE 1606

(Agreements with conditions or for a fixed term)

1. An agreement with conditions or for a fixed term is valid.
2. With regard to third parties, fulfilment of the conditions does not have a retroactive effect.

ARTICLE 1607

(Immutability of prenuptial agreements and legal property regime)

1. Except in the cases provided for by law, after the marriage is entered into, it is not permitted that alterations be made to prenuptial agreements or property regimes that have been legally established.
2. Included in the prohibitions in the above paragraph are purchase and sale contracts and corporate contracts between the spouses, except if they are legally separated in terms of individuals and property.
3. However, participation of both spouses in the same corporation, including the dation in fulfilment made by the spouse that owes to his or her partner is permissible.

ARTICLE 1608
(Exceptions to the principle of immutability)
1.The following alterations to the regime for property are permissible:
a) Through revocation of the provisions mentioned in Article 1593, in the cases and in the form that this is permitted under Articles 1594 to 1600;
b) By simple legal separation of property;
c) By judicial separation of persons and assets;
d) In all other cases provided for by law for the separation of property during the period of the marriage.
2. The provisions of Article 1604 shall apply to alterations to the prenuptial agreement or to the legal regime for property provided for in the paragraph above.

ARTICLE 1609
(Lapse of prenuptial agreements)
The agreement lapses if the marriage is not entered into within one year, or, if it has been, it is declared null and void, with the exception of the provisions regarding a putative marriage.

SECTION IV
Matrimonial property regimes

SECTION I
General provisions

ARTICLE 1610
(Statutory property regime)
In the absence of a prenuptial agreement, or if a prenuptial agreement lapses, becomes invalid or ineffective, the marriage is considered to be entered into under the regime of community of property acquired after the marriage.

ARTICLE 1611
(Generic cross-reference to a foreign or revoked law, or to local uses and customs)
The property regime for a marriage may not be set, wholly or in part, by simple generic cross-reference to a foreign law, to a revoked precept or to local uses and customs.

ARTICLE 1612
(Partitioning in accordance with non-conventional regimes)
1. It is permissible for the spouses to agree, in the case of dissolution of the marriage through the death of one of the spouses, if there are descendants in common, that the partitioning be made in accordance with the community of property regime, whatever the regime adopted.
2. The provision of the paragraph above does not affect adversely the rights of third parties in the settlement of debts.

ARTICLE 1613
(Imperative regime of separation of property)
1. The following are always considered governed by the regime of separation of property:
a) A marriage entered into without a prior publication of banns.
b) A marriage entered into by an individual aged sixty or over.
2. The provision of the previous paragraph does not prevent the spouses from making gifts to each other.

SUBSECTION II
Regime of community of property acquired after marriage

ARTICLE 1614
(Applicable norms)
If the property regime adopted by the spouses, or applied statutorily, is that of community of property acquired after marriage, the provisions of the following articles shall be observed.

ARTICLE 1615
(Individual property)
1. The following are considered individual property of each spouse:

a) The property that each owns at the time that the marriage is entered into;
b) The property that comes to them through succession or gift after the marriage is entered into;
c) The property acquired during the marriage by virtue of prior personal right.
2. The following are considered acquired by virtue of prior personal right, and without prejudice to any compensation later owed to communal property:

a) Property acquired as a consequence of rights existing prior to the marriage, in the form of illiquid property divided subsequently;
b) Property acquired by prescription based on ownership that began before the marriage;
c) Property bought before the marriage with reservation of ownership;
d) Property acquired in the exercise of a right of preference based upon a situation that existed prior to the marriage.

ARTICLE 1616
(Subrogated property in place of individual property)
Individual property is considered to be:
a) Subrogated property in the place of the individual property of one of the spouses, by means of direct exchange;
b) The price of individual property that has been disposed of;
c) Property acquired or improvements made using the cash or personal securities of one of the spouses, provided the provenance of the cash or securities is duly mentioned in the acquisition document, or in an equivalent document, with the intervention of both spouses.

ARTICLE 1617

(Property integrated into communal property)

The following are considered part of communal property:

a) The proceeds of the work of the spouses.

b) Property acquired by the spouses during the marriage, which is not excepted by law.

ARTICLE 1618

(Presumption of communicability)

In case of doubts as to the communicability of movable property, this property is considered communal property.

ARTICLE 1619

(Property acquired in part with individual cash or individual property and in part with communal cash or communal property)

1. Property acquired in part with individual cash or individual property of one of the spouses and in part with communal cash or communal property assumes the nature of the more valuable contribution.

2. However, compensation owed by communal property to the individual property of each spouse, or by the spouses to communal property at the time of the dissolution and partitioning of the communal property is always excepted.

ARTICLE 1620

(Acquisition of indivisible property already belonging in part to one of the spouses)

Indivisible property of which the spouse was a co-owner, acquired by that spouse outside community property also reverts to the spouse's individual property, without prejudice to compensation owed to communal property in the amounts paid for the respective acquisition.

ARTICLE 1621

(Property acquired by virtue of ownership of individual property)

1. Property acquired by virtue of ownership of individual property, which may not be considered the fruit thereof, is considered to be individual property, without prejudice to any compensation eventually owed to communal property.

2. By virtue of the preceding paragraph, the following is considered individual property:

a) Accessions.

b) Materials resulting from the demolition or destruction of property.

c) Any part of a treasure acquired by a spouse in his or her capacity as owner.

d) Premiums deriving from the amortization of credit securities or of other real estate owned by one of the spouses, as well as securities acquired by virtue of a subscription right inherent therein.

ARTICLE 1622

(Property donated or bequeathed in favour of the community)

1. Property owned by one of the spouses on the basis of a gift or through the will of a third party goes to the community if the donor or testator has so determined; it is understood that this is the will of the donator or testator if the gift is made in favour of both spouses jointly.

2. The provision of the preceding paragraph does not cover gifts and proceeds from wills that are part of the inheritance of the donee.

ARTICLE 1623

(Participation of the spouses in communal property)

1. Each spouse owns half of their communal property and half of their communal debts, and any stipulation to the contrary is null.

2. The rule of half does not prevent either of the spouses from making gifts or bequeaths to third parties from the spouse's half of communal property, under the terms permitted by law.

ARTICLE 1624

(Working instruments)

If the working instruments of each spouse have been included in communal property, the spouse who needs them for exercise of his or her profession has the right to be given control of these at the time of partitioning.

SUBSECTION III

Community for property regime

ARTICLE 1625

(Stipulation of regime)

If the property regime adopted by the spouses is that of community of property, communal property comprises all the couple's present and future property not excepted under the law.

ARTICLE 1626
(Non-communicable property)

1. The following are excepted from community:

a) Property donated or bequeathed, even as an inheritance, under a clause of non-communicability;
b) Property donated or bequeathed with a reversion or trust clause, unless the clause has lapsed;
c) Usufruct, use or habitation and other strictly personal rights;
d) Compensation owed, through verifiable facts, against one of the spouses or against that spouse's individual property;
e) Insurance policies that mature in favour of each spouse or cover the risks relative to individual property;
f) Garments, clothing and other objects for personal and exclusive use by each spouse, as well as their diplomas and correspondence;
g) Family records with low financial value;

2. The non-communicability of property does not include the fruits thereof or the value of improvements thereto.

ARTICLE 1627
(Applicable provisions)

The provisions relating to the community of property acquired after marriage shall apply to the community of property regime, with the necessary adaptations.

SUBSECTION IV
Separation of property regime

ARTICLE 1628
(Ownership in separation)

If the property regime imposed by law or adopted by the spouses is that of separation of property, each spouse retains ownership and enjoyment of all of his or her present and future property and may dispose of such property freely.

ARTICLE 1629
(Proof of ownership of property)

1.Within the prenuptial agreement, spouses are permitted to stipulate assumption clauses relative to the ownership of movable property with effects that extend to third parties, without prejudice to proof to the contrary.
2. If there are doubts as to the exclusive ownership by one of the spouses, the movable property in question shall be regarded as belonging to both spouses.

CHAPTER X
Marriage gifts and gifts between spouses

SECTION I
Marriage gifts

ARTICLE 1630
(Concept and applicable norms)

1. A marriage gift is a gift made to one of the spouses or both, in view of their marriage.
2. The provisions of this section, and, subsidiarily, Articles 874 to 910, shall apply to marriage gifts.

ARTICLE 1631
(Types)

Marriage gifts may be made by one spouse to the other, by both reciprocally or by a third party to one or both spouses.

ARTICLE 1632
(Regime)

1. Gifts between living individuals are effective from the time the marriage is entered into, unless stipulated to the contrary.
2. Gifts that are to take effect upon the death of the donor are considered agreements as to succession, and, as such, are subject to the provisions of Articles 1594 to 1596, without prejudice to the provisions of the following articles.

ARTICLE 1633
(Form)

1. Marriage gifts can only be given under the prenuptial agreement.
2. Failure to observe the provision of the preceding paragraph, with regard to gifts mortis causa, implies nullity thereof, without prejudice to the provisions of Article 880, paragraph 2, and, with regard to gifts from the living, the non-applicability of the special regime in this section.

ARTICLE 1634
(Non-communicability of property given by spouses)

Unless stipulated to the contrary, property given by one spouse to the other is considered to be owned by the receiving spouse, whatever the property regime.

ARTICLE 1635
(Revocation)

Gifts between spouses are not revocable by mutual consent of the contracting parties.

ARTICLE 1636
(Deduction due to inofficious giving)

Marriage gifts are subject to deduction for inofficious giving, under the general terms.

ARTICLE 1637
(Forfeiture)

1. The status as marriage gifts is forfeited if:

a) The marriage is not entered into within one year, or if, having been entered into, it is declared null and void, unless otherwise provided for on matters relating to putative marriage;
b) In the case of divorce or judicial separation of persons and assets through the fault of the donee, if that person is considered be sole or principal culpable individual.

2. If the gift has been made by a third party to both of the spouses or if the property given has entered communal property, and one of the spouses is declared the sole or principal culpable individual in the divorce or separation, the forfeiture affects only that person.

SECTION II
Gifts between spouses

ARTICLE 1638
(Applicable provisions)

Gifts between spouses are governed by the provisions of this section and, subsidiarily, the rules of Articles 874 to 910.

ARTICLE 1639
(Imperative regime of separation of property)

Gifts between spouses are null if an imperative regime of separation of property is in effect.

ARTICLE 1640
(Form)

1. A gift of movable property, even if handed over, shall also consist of a written document.
2. Spouses may not make reciprocal gifts in the same act.
3. The provision of the above paragraph is not applicable to reserves for usufruct nor to life annuities in the name of the survivor, stipulated matters, coffins and others in gifts to third parties.

ARTICLE 1641
(Object and non-communicability of gifts)

1. Only the individual property of the donor may be given as gifts.
2. Gifts are not communicable, irrespective of the marital regime.

ARTICLE 1642
(Freedom to revoke)

1. Gifts between spouses may be revoked by the donor, at all times, and the latter may not renounce this right.
2. The right of revocation is not transmitted to the donor’s heirs.

ARTICLE 1643
(Forfeiture)

1. Gifts between spouses are forfeited when:

a) The donee dies before the donor, except if the latter confirms the gift within three months following the death of the former.
b) If the marriage is declared null and void, without prejudice to provisions relative to a putative marriage.
c) In the case of a divorce or judicial separation of persons and assets through the fault of the donee, if the latter is considered to be the sole or principal culpable party.
2. The confirmation referred to in subparagraph a) above shall be in the form required for the gift.

CHAPTER IX
Simple legal separation of assets

ARTICLE 1644
(Basis for separation)

Either spouse may request simple legal separation of assets if the spouse is in danger of losing what is his or hers due to poor management on the part of the other spouse.

ARTICLE 1645
(Litigious character of separation)

The separation may be decreed only in a proceeding brought by one spouse against the other.

ARTICLE 1646
(Legitimacy)

1. Only the aggrieved spouse has legitimacy with regard to proceedings for separation, or if that spouse is under interdiction, the legal representative thereof, having received counsel from the family.
2. If the legal representative of the aggrieved spouse is the other spouse, the action may be brought only in the name of the former by a relative in straight line or up to the third degree in collateral line.
3. If the aggrieved spouse is incapacitated, the proceedings may be brought by him or her, or by a legally authorized trustee.

ARTICLE 1647
(Effects)

Following a final sentence ordering legal separation of assets, the marital regime, without prejudice to provisions relative to registration, becomes that of separation of property, and communal property is divided as if the marriage had been dissolved; the partitioning may be made without judicial intervention or through a judicial inventory.

ARTICLE 1648
(Irrevocability)
The simple legal separation of assets is irrevocable.

ARTICLE 1649
(Separation of assets on other grounds)
The provisions of the two articles above are applicable to all cases, provided for by law, of separation of assets during the period of the marriage.

CHAPTER XII
Divorce and judicial separation of persons and assets)

SECTION I
Divorce

SECTION I
General provisions

ARTICLE 1650
(Modalities)
A divorce may be petitioned in court by both spouses, by mutual agreement, or by one against the other, on any of the grounds provided for in Articles 1656 and 1658; in the former case, this is called divorce by mutual consent, and in the second, litigious divorce.

ARTICLE 1651
1. (Attempt at reconciliation; conversion of litigious divorce into divorce by mutual consent)During the divorce process, spousal reconciliation shall always be attempted.
2. If, in a litigious divorce, the reconciliation attempt produces no result, the judge shall attempt to reach an agreement from the spouses as to a divorce by mutual consent; if an agreement is reached, or if the spouses at any time during the process have opted for this type of divorce, the terms of divorce proceedings by mutual consent shall be followed, with the necessary adaptations.

SUBSECTION II
Divorce by mutual consent

ARTICLE 1652
(Requirements)
1. A divorce by mutual consent may be petitioned by the spouses at all times.
2. The spouses do not need to reveal the cause of the divorce, but shall agree as to alimony awards to the spouse that needs them, the custody of minor children and the disposition of the family home.
3. The spouses shall also agree as to the regime to be observed during the period the proceedings are in progress, with respect to alimony awards, the exercise of parental authority and the utilization of the family home.

ARTICLE 1653
(First conference)

1. Having received the request, the judge shall call the spouses for a conference, at which they shall attempt reconciliation.
2. At the conference, the judge shall appraise the agreements referred to in paragraph 2 of the previous article, inviting the spouses to alter them if the agreements do not sufficiently meet the interests of either of them or the children; he shall also endorse the provisional agreements called for in paragraph 3 of the same article, and may alter them, after consultation with the spouses, if the interests of the children so require.
3. If the spouses persist in their purpose, the obligation of cohabitation becomes suspended following the conference, and either spouse may request an inventory listing of his or her own property and of communal property.

ARTICLE 1654
(Second conference)

If no reconciliation is meanwhile achieved, and the spouses maintain the agreements referred to in Article 1652, paragraph 2, the divorce is decreed; the judge may also set a period for the spouses to change these agreements, under penalty that the petition will lose its effect.

ARTICLE 1655
(Sentence)

The sentence decreeing a divorce by mutual consent shall ratify the agreements referred to in Article 1652, paragraph 2; if, however, these agreements do not sufficiently safeguard the interests of one of the spouses or the children, the endorsement shall be withdrawn, and the petition for divorce dismissed.

SUBSECTION III
Litigious divorce

ARTICLE 1656
(Culpable violation of conjugal obligations)

1. Either spouse may sue for divorce if the other culpably violates conjugal obligations, when the violation, due to the gravity or reiteration thereof, compromises the possibility of communal life.
2. When appraising the gravity of the facts invoked, the court shall take into account, namely, the culpability that may be imputed to the petitioner and the level of education and moral sensitivity of the spouses.

ARTICLE 1657
(Exclusion from the right to sue for divorce)
The couple may not obtain the divorce under the terms of the above article if:
a) There was instigation by the petitioning spouse to practise the fact invoked as grounds for the petition or if the petitioning spouse intentionally created conditions propitious to such.
b) If the petitioning spouse's subsequent conduct, namely, explicit or tacit forgiveness, reveals that he or she does not regard the act in question as an impediment to communal life.

ARTICLE 1658
(Breach of communal life)
The following are also grounds for a litigious divorce:
a) De facto separation for three consecutive years;
b)De facto separation for one year, if the divorce was petitioned by one of the spouses without opposition from the other;
c) Alteration in the mental faculties of the other spouse that persists in excess of three years, and the gravity of which compromises the possibility of a communal life;
d) Desertion with no news from the absentee for a period no less than two years.

ARTICLE 1659
(De facto separation)
1. It is understood that there has been a de facto separation pursuant to Item a) of the above article, when the spouses do not cohabit, and both spouses, or either of them, do not intend to return to cohabiting.
2. In divorce proceedings based upon de facto separation, the judge shall declare the culpability of the spouses, if any, under the terms of Article 1663.

ARTICLE 1660
(Desertion)
The provision of paragraph 2 of the previous article is applicable to a divorce decreed on grounds of desertion.

ARTICLE 1661
(Legitimacy)
1. Only the aggrieved spouse, or, if he or she is under interdiction, his or her legal representative, may sue for divorce under the terms of Article 1656, with authorization from the family council; if the legal representative is the other spouse, the proceedings may be brought on behalf of the aggrieved spouse by any of his or her or her relatives in straight line or up to the third degree in collateral line, if this relative is also authorized by the family council.
2. The divorce may be petitioned by either spouse based upon subparagraph a) of Article 1658, and subparagraphs b) and c) of the same article; it may be petitioned only by a spouse who invokes desertion or alteration in the mental faculties of the other spouse.
3. The right to divorce is not transmitted by death, however the proceedings may be continued by the heirs of the plaintiff for patrimonial purposes, namely those deriving from the declaration provided for in Article 1663, if the plaintiff dies while the case is pending; for the same purposes, the proceedings may be brought against the heirs of the accused.

ARTICLE 1662
(Lapse of the right to institute proceedings)
1. The right to divorce lapses within two years, counting from the date on which the aggrieved spouse or the spouse's legal representative learns of the fact constituting grounds for the petition.
2. The time period for the forfeit runs separately for each of the facts; in the case of a continued fact, this may only begin on the date on which the fact has ceased.

ARTICLE 1663
(Declaration of culpable spouse)
1. If one or both spouses are culpable, the sentence shall state this; if the culpability of one of the spouses is considerably greater than that of the other, the sentence shall also state which spouse is more culpable.
2. The provision of the above paragraph is applicable even if the accused has not brought counter proceedings or if, with regard to the alleged facts, the time period referred to in Article 1662 has elapsed.

SUBSECTION IV
Effects of divorce

ARTICLE 1664
(General principle)
A divorce dissolves the marriage and legally has the same effect as dissolution by death, with the exceptions contained in the law.

ARTICLE 1665
(Date on which divorce takes effect)
1. The divorce takes effect from the date on which the respective sentence becomes final but is retroactive to the date on which the proceedings were instituted with respect to patrimonial relations between the spouses.
2. If it is proven during the proceedings that the spouses do not cohabit, either spouse may request that the effects of the divorce be retroactive to the date, to be established in the sentence, on which cohabitation ceased on the grounds of the exclusive or predominant culpability of the other spouse.
3. The effects of the divorce upon property may be opposed by third parties only from the date on which the sentence is handed down.

ARTICLE 1666
(Partitioning)
The spouse who is declared as the sole or principal culpable individual may not receive more from the partitioning than he or she would have received if the marriage had been entered into under the community of property regime.

ARTICLE 1667
(Benefits received, or to be received, by spouses)
1. The spouse declared as being the sole or principal culpable individual forfeits all benefits received or to be received from the other spouse or from a third party as a result of the marriage, or in consideration of the marital status, both if the stipulation was made before or after the marriage was entered into.
2. The innocent spouse, or the spouse who is not the principal culpable individual, retains all the benefits stipulated in the clause on reciprocity; this spouse may renounce these benefits under a unilateral declaration of intention, however if there are children from the marriage, this renunciation is only permitted in their favour.

ARTICLE 1668
(Reparation of non-patrimonial damage)
1. The spouse declared to be the sole or principal culpable individual, and also the spouse that petitioned for divorce on the grounds of subparagraph c) of Article 1658 shall make reparation for non-patrimonial damage caused to the other spouse by dissolution of the marriage.
2. The compensation claim shall be part of the divorce proceedings themselves.

ARTICLE 1669
(Family home)
1. The court may determine that the family home be given in lease to either of the spouses, whether the home is owned jointly or owned by the other spouse, considering, namely, the needs of each spouse and the interests of the couple's children.
2. The lease provided for in the above paragraph is subject to the rules for rental accommodation, however the court may define the conditions in the contract, having consulted with the spouses, and make the lease forfeit at the request of the landlord, if supervening circumstances so justify.

SECTION II
Judicial separation of persons and assets

ARTICLE 1670
(Cross-reference)
Without prejudice to the provisions of this section, the provisions relative to divorce in the above section are applicable to the judicial separation of persons and assets, with the necessary adaptations.

ARTICLE 1671
(Counterclaim)
1. The judicial separation of persons and assets may be petitioned through a counterclaim, even if the plaintiff has petitioned for divorce; if the plaintiff has requested the separation of persons and assets, the accused may also petition the divorce in a counterclaim.
2. In the cases referred to in the above paragraph, the sentence shall decree the divorce if the petitions for proceedings and counterclaim proceed.

ARTICLE 1672
(Effects)

The judicial separation of persons and assets does not dissolve the conjugal bond, but extinguishes the obligations of cohabitation and assistance, without prejudice to the right to alimony.

With regard to assets, the separation has the same effects as dissolution of the marriage.

ARTICLE 1673
(End of separation)

The judicial separation of persons and assets ends in the case of reconciliation between the spouses, or if the marriage is dissolved.

ARTICLE 1674
(Reconciliation)

1. The spouses may, at all times, re-establish their life together and the full exercise of conjugal rights and obligations.
2. Reconciliation may be brought about by ending the separation proceedings or by public deed, and is subject to confirmation by court; the sentence shall be registered as a matter of procedure.
3. Reconciliation becomes effective on confirmation thereof, without prejudice to the application, with the necessary adaptations, of the provisions of Articles 1557 and 1558.

ARTICLE 1675
(Conversion of separation to divorce)

1. At the end of two years from the date on which the sentence ordering the judicial separation of persons and assets, either litigious or by mutual consent, becomes final, if the spouses have failed to reconcile themselves, either spouse may request that the separation be converted to divorce.
2. If the conversion is requested by both spouses, the period referred to in the above paragraph is not necessary.
3. The conversion may be requested by either spouse, irrespective of the period established in paragraph 1 of this article, if the other commits adultery after the separation, and in this case, Article 1657 shall apply.
4. The sentence converting the separation into divorce may not alter what has been decided in the separation proceeding, under the terms of Article 1663, with regard to culpability of the spouses.

TITLE III
On parentage

CHAPTER I
Establishment of parentage

SECTION I
General provisions

ARTICLE 1676
(Establishment of parentage)

1. Relative to the mother, parentage results from the fact of birth and is established under the terms of articles 1683 to 1705.
2. Paternity is presumed in relation to the husband of the mother and, in the cases of parentage outside the marriage, established by recognition.

ARTICLE 1677
(Legitimacy of parentage)

1. The powers and duties arising from parentage or from the relationship established therein are only legitimate if parentage is legally established.
2. Establishment of parentage has retroactive effect however.

ARTICLE 1678
(Conception)

The moment of a child's conception is established, for legal purposes, as being within the first one hundred and twenty days of the three hundred days preceding the birth, except for the provisions of the following articles.

ARTICLE 1679
(Previous pregnancy)

1. If within three hundred days prior to the birth, another pregnancy has been terminated or completed, the days up until the termination of the pregnancy or the birth are not considered when determining the moment of conception.
2. Proof of termination of another pregnancy, when there is no registration thereof, may only be made in proceedings brought by an interested party or by the Office of the Public Prosecutor specifically for this purpose.

ARTICLE 1680
(Legal establishment of conception)

1. Legal proceedings are admissible in order to set the probable date of conception within the period referred to in article 1678, or to prove that the child's gestation period is less than one hundred and eighty days or in excess of three hundred.
2. The proceedings may be instituted by any interested party or by the Office of the Public Prosecutor; if it is deemed to have grounds, the court shall establish, in any of the cases referred to in the previous paragraph, the probable date of the conception.

ARTICLE 1681
(Blood tests and other scientific methods)
In proceedings relative to parentage, blood tests and any other scientifically proven methods are admissible as means of proof.

ARTICLE 1682
(Proof of parentage)
Except in the cases specified by law, proof of parentage may only be made in the form established in the civil registration laws.

SECTION II
Establishment of maternity

SUBSECTION I
Declaration of maternity

ARTICLE 1683
(Mention of maternity)
1. A person declaring the birth shall, whenever possible, identify the mother of the child registered.
2. The maternity indicated is mentioned in the register.

ARTICLE 1684
(Birth within the previous year)
1. In the case of declaration of birth occurring less than one year previously, the maternity indicated is considered established.
2. Once the registration has been drawn up, the contents of the record shall be communicated to the mother of the child registered whenever possible, by means of notification served in person, unless the declaration has been made by herself or by the husband.

ARTICLE 1685
(Birth occurring one year previously or more)
1. In the case of birth declaration of a birth occurring one year previously or more, the maternity indicated is considered established if the mother is the declarant, is present at the act or is represented thereat by an agent with special powers.
2. Apart from the cases provided for in the previous paragraph, the person indicated as mother shall be notified in person in order that she may, within fifteen days, declare that she confirms maternity, under penalty of the child not being considered hers; the acts of notification and confirmation are recorded in the birth registration.
3. If the supposed mother denies maternity or cannot be notified, the mention of maternity is left without effect.
4. The certificates extracted from the birth registration shall contain no reference to the mention that is left without effect or to the legal records relative thereto.

ARTICLE 1686

(Registration omission relative to maternity)

1. A mother may declare maternity if there is an omission in the registration relative to this, except in the case of a child born or conceived within marriage and adopted by a person other than the husband.

2. When the mother is able make the declaration of maternity, any of the persons who have the responsibility for making the birth declaration have the power to identify the mother of the child registered, and the provisions of articles 1683 to 1685 shall apply.

ARTICLE 1687

(Repudiated maternity)

If the maternity established under the terms of the previous articles is not true, it may be repudiated, at all times, in court by the person declared as mother, by the registered child, by anyone with a moral or patrimonial interest in the cause of the proceedings or by the Office of the Public Prosecutor.

SUBSECTION II

Verification as a matter of procedure

ARTICLE 1688

(Investigation of maternity as a matter of procedure)

1. Whenever maternity is not mentioned in the birth registration, the official must send the court a full certificate of the registration and copy of the record of declarations, if any, in order for the maternity to be investigated as a matter of procedure.

2. The court shall proceed with the necessary diligences to identify the mother; if in any way the identity of the supposed mother comes to its knowledge, it shall hear her declarations, which shall be committed to writing.

3. If the supposed mother confirms maternity, a record shall be drawn up and a certificate sent for legal registration to the competent registry office.

4. If the maternity is not confirmed but the court is satisfied with the existence of secure proof that guarantees the viability of investigation proceedings, it shall order the process to be handed over to an agent of the Public Prosecution Service at the competent court, in order for the proceedings to be instituted.

ARTICLE 1689

(Cases in which investigation of maternity is not admissible as a matter of procedure)

The proceedings referred to in the previous article may not be brought:

a) If, in the case of adoption, the supposed mother and adoptive parent are blood relatives or relatives by affinity in straight line or second-degree relatives in collateral line;

b) If two years have elapsed since the date of birth.

ARTICLE 1690

(Child born or conceived within marriage)

If, as a consequence of the provisions of article 1688, the court is satisfied with the existence of secure proof that the child was born or conceived within the marriage of the supposed mother, it shall order the process to be submitted to an agent of the Office of the Public Prosecutor at the competent court in order for the proceedings referred to in article 1702 to be brought; in this case the provisions set out in subparagraph b) of the previous article shall apply.

ARTICLE 1691

(Evidential importance of declarations given)

Without prejudice to the provision set out in paragraph 3 of article 1688, the declarations given during the process referred to in article 1688 do not imply presumption of maternity, nor do they constitute principle of proof.

ARTICLE 1692

(Secrecy of taking of investigation)

The investigation is secret and shall be conducted so as to avoid offending the sensibilities or dignity of the persons involved.

ARTICLE 1693

(Dismissal of proceedings as a matter of procedure)

Dismissal of proceedings as a matter of procedure does not prevent the bringing of new proceedings to investigate maternity, even if on the basis of the same facts.

SUBSECTION III

Judicial recognition

ARTICLE 1694

(Investigation of maternity)

When it does not result from a declaration, under the terms of the previous articles, maternity may be recognized in proceedings especially brought by the child for this purpose.

ARTICLE 1695

(Cases in which recognition is not admissible)

Recognition of maternity other than that in the birth registration is not admissible.

ARTICLE 1696

(Proof of maternity)

1. During proceedings to investigate maternity, the child shall prove that he or she was born of the supposed mother.
2. Maternity is presumed:

a) When the child has been considered and treated as such by the supposed mother and also considered as such by the public;
b) When there is a letter or other written document in which the supposed mother unequivocally declares her maternity.
3. The presumption is considered refuted when there are serious doubts as to maternity.

ARTICLE 1697

(Time limit for instituting proceedings)

Proceedings to investigate maternity may be instituted at all times.

ARTICLE 1698

(Prosecution and transmission of proceedings)

A spouse not subject to judicial separation of persons and assets or the descendants of the child may continue with the proceedings if the child dies while in the case is pending; however they may only institute proceedings if the child, without having brought them, dies before the end of the time limit within which he or she could do so.

ARTICLE 1699

(Passive legitimacy)

1. Proceedings against the supposed mother shall, if she has died, be instituted against her surviving spouse when there is no judicial separation of persons and assets and also, successively, against descendants, ascendants or siblings; in the absence thereof persons, a special trustee shall be appointed.
2. When there are heirs or legatees whose rights are affected by the substance of the proceedings, this will have no effects against them if they have not also been sued.

ARTICLE 1700

(Coalition of investigators)

In maternity investigation proceedings a coalition of investigators for the same supposed parent is admissible.

ARTICLE 1701

(Provisional alimony)

A minor, interdicted or incapacitated child has the right to provisional alimony from the time the proceedings are instituted, provided that the court considers recognition of maternity to be likely.

ARTICLE 1702

(Child born or conceived within marriage)

1. In the case of a child born or conceived within the marriage of the supposed mother, the investigation proceedings shall also be instituted against the husband and, in the case of adoption, against the adopter.
2. While the child is a minor, the proceedings may be instituted by the husband of the supposed mother; in this case they shall be instituted against the supposed mother and against the child and, in the case of adoption, also against the adopter.

ARTICLE 1703

(Repudiation of presumption of paternity)

1. Relative to the proceedings referred to in the previous article the presumption of paternity of the mother's husband may always be repudiated.
2. If the child has been adopted by a person other than the mother's husband, the adoption shall only prevail if the presumption of paternity is removed, under the terms of the previous paragraph.

ARTICLE 1704

(Establishment of maternity at the mother's request)

1. In the case of a child born or conceived within marriage and adopted by a person other than the mother's husband, the mother may request the court to declare maternity.
2. In the case referred to in the previous paragraph, the provisions set out in articles 1702 and 1703 are applicable, with the necessary adaptations.

ARTICLE 1705

(Legitimacy in case of death of the plaintiff or accused)

In the case of death of the plaintiff or the accused in the proceedings referred to in articles 1702 to 1704, the provisions set out in articles 1698 and 1699 are applicable, with the necessary adaptations.

SECTION III

Establishment of paternity

SUBSECTION I

Presumption of paternity

ARTICLE 1706

(Presumption of paternity)

1. It is assumed that the father of a child born or conceived within the marriage of the mother is the mother's husband.
2. The moment of dissolution of the marriage by divorce or annulment thereof is the date on which the respective sentence becomes final; a catholic marriage, however, is only considered null or dissolved by dispensation from registration of the sentence pronounced by the ecclesiastical authorities.

ARTICLE 1707

(Putative marriage)

1. The annulment of a civil marriage, even if contracted in bad faith by both spouses, does not exclude the presumption of paternity.

2. A declaration of nullity of a catholic marriage, transcribed in the civil registry, also does not exclude this presumption.

ARTICLE 1708

(Children conceived prior to the marriage)

Relative to a child born within one hundred and eighty days subsequent to the marriage, the assumption established in article 1706 ceases if the mother or her husband declares when registering the birth that the husband is not the father.

ARTICLE 1709

(Children conceived after the end of cohabitation)

1. The assumption of paternity ceases if the birth of the child occurs after three hundred days following the end of cohabitation of the spouses, under the terms of the following paragraph.

2. The cohabitation of the spouses is considered terminated:

a) On the date of the first conference, in the case of divorce or separation by mutual consent;

b) On the date of the writ of the accused for divorce or litigious separation proceedings, or on the date set in the sentence as termination of cohabitation;

c) On the date on which news from the husband ceased, in accordance with the decision pronounced in proceedings to appoint the provisional trustee, justify the absence or declare presumed death.

ARTICLE 1710

(Resumption of assumption of paternity)

For the effects of that set out in paragraph 1 of article 1706, the following are rendered equivalent to a new marriage:

a) Reconciliation of spouses with judicial separation of persons and assets;

b) Return of a missing person;

c) A sentence that terminated the respective proceedings, without having decreed the divorce or judicial separation of persons and assets, becomes final

ARTICLE 1711

(Renewal of assumption of paternity)

1. When the beginning of the legal conception period is prior to the date on which the sentence pronounced in the proceedings referred to in subparagraphs a) and b) of paragraph 2 of article 1709 becomes final, the assumption of paternity is renewed if, in proceedings brought by one of the spouses or by the child, it is proven that in the legal period of conception there were relations between the spouses, which make paternity of the husband probable or that the child, on the occasion of his or her birth, benefited from the civil status of both spouses.

2. Facts in proof of civil status exist in the case of the following requirements, cumulatively, relative to both spouses:

a) The person is considered and treated as a child by both spouses;

b) He or she is considered as such in social relations, especially within the respective families.

3. If there is adoption, in the proceedings referred to in paragraph 1, the adopter shall also be taken to court.

ARTICLE 1712

(Non indication of husband's paternity)

1. A married woman may make the birth declaration indicating that the child is not her husband's child.

2. The assumption of paternity ceases in the case provided for in the previous paragraph, if a declaration that on the occasion of his or her birth, the child did not benefit from the civil status is recorded in the registration, under the terms of paragraph 2 of the previous article, relative to both spouses.

3. Mention of paternity of the mother's husband the shall be made as a matter of procedure if, 60 days following the date on which the record was drawn up, the mother does not prove that she requested the declaration referred to in paragraph 2 or if the request is rejected.

4. Without prejudice to the provision set out in paragraph 1, mentions that contradict the assumption of paternity before this terminates are not admissible in the birth registration.

5. If the mother makes the declaration provided for in paragraph 1, parental authority shall only fall on a husband when the mention of his or her paternity is recorded in the registration.

6. When the assumption of paternity ceases under the terms of paragraph 2, the provision set out in article 1711 is applicable.

ARTICLE 1713

(Declaration of non-existence of civil status)

The declaration of civil status referred to in paragraph 2 of the previous article is pronounced in special proceedings and the effects thereof are restricted to the provision set out in that precept.

ARTICLE 1714

(Double assumption of paternity)

1. If the child was born after the mother had entered into another marriage and before the first marriage has been dissolved or within three hundred days following dissolution thereof, it is assumed that the father is the second husband.
2. Once proceedings for repudiation of paternity are judged to have grounds, the assumption relative to the previous husband of the mother is revived.

ARTICLE 1715

(Compulsory mention of paternity)

1. The paternity assumed under the terms of the previous articles shall consist of the registration of the child's birth, and mentions that contradict this are not permitted, except for the provisions set out in articles 1708 and 1712.
2. If the registration of the parents' marriage is only made after registration of the birth, and this does not contain the paternity of the mother's husband, the paternity shall be mentioned as a matter of procedure.

ARTICLE 1716

(Rectification of registration)

1. If, contrary to the provisions contained in the law, the paternity of a child born to a married woman is not mentioned, any interested party, the Office of the Public Prosecutor or the competent official may, at all times, promote rectification of the registration.
2. The same persons also enjoy this right when the child has been registered as the child of the husband of a mother who does not benefit from assumption of paternity.

ARTICLE 1717

(Rectification, declaration of nullity or cancellation of registration)

If any registration is rectified, declared null or cancelled due to forgery or any other cause and, as a consequence of the rectification, declaration of nullity or cancellation, the child is no longer considered to be the child of the mother's husband or to benefit from the assumption of paternity relative thereto, the respective registration shall be executed as a matter of procedure, if it has not been ordered by the court.

ARTICLE 1718

(Repudiation of paternity)

The paternity assumed under the terms of article 1706 may not be repudiated except for the cases provided for in the following articles.

ARTICLE 1719

(Grounds and legitimacy)

1. The paternity of a child may be repudiated by the mother's husband, by the mother, by the child or, under the terms of article 1721, by the Office of the Public Prosecutor.
2. In the proceedings, the plaintiff shall prove that, under the circumstances, the paternity of the mother's husband is clearly unlikely.
3. Repudiation of paternity based on artificial insemination of a spouse who agreed thereto is not permitted.

ARTICLE 1720

(Repudiation of paternity of a child conceived prior to marriage)

1. Irrespective of the proof referred to in paragraph 2 of the previous article, the mother or husband may still repudiate the paternity of a born child within one hundred and eighty days following the marriage, except:

a) If the husband, before marrying, knew the woman was pregnant;
b) If, having been present in person or represented by a agent with special powers, the husband consented that the child was declared his or her in the birth registration;
c) If the husband has recognized the child as his or her in any other form.

2. The provision set out in subparagraph a) of the previous paragraph ceases if the marriage is cancelled due to lack of will, or for reasons of moral coercion practised against the husband; likewise, the provisions set out in subparagraphs b) and c) cease when it is proven that the consent or recognition has been either vitiated by error as to the circumstances that contributed decisively to the conviction of paternity or extorted by coercion.

ARTICLE 1721

(Proceedings by the Office of the Public Prosecutor)

1. Proceedings to repudiate paternity may be instituted by the Office of the Public Prosecutor at the request of the party who declares himself or herself father of the child, if the viability of the request is recognized by the court.
2. The request shall be addressed to the court within sixty days counting from the date on which the paternity of the mother's husband was entered into the register.
3. The court shall proceed with the necessary diligences to check the viability of the proceedings, having heard, whenever possible, the mother and the husband.
4. If it concludes that the proceedings are viable, the court shall order the case to be submitted to the agent of the Office of the Public Prosecutor at the competent court for repudiation proceedings.

ARTICLE 1722

(Time limits)

1. Repudiation of paternity proceedings may be brought:

a) By the husband, within two years counting from the time he knew of the circumstances that led him to conclude his or her non-paternity;
b) By the mother, within two years following the birth;
c) By the child, within a year of coming of age or being emancipated, or within a year counting from the date on which he or she knew of circumstances that led him or her to conclude that he or she was not the child of the mother's husband.

2. If there is an omission in the registration as to maternity, the time limits referred to in subparagraphs a) and c) of the previous paragraph count from the date on which maternity was established.

ARTICLE 1723

(Advance repudiation)

1. If there is an omission in the registration as to maternity, repudiation proceedings may be brought by the husband of the supposed mother within six months counting from the day on which he knew of the birth.

2. Expiry of the time limit referred to in the previous paragraph does not prevent the husband from bringing repudiation proceedings under the general terms.

ARTICLE 1724

(Prosecution and transmission of proceedings)

1. If the holder of the right to repudiate paternity dies during the proceedings or has not brought them, but before the end of the time limit established in articles 1722 and 1723, the following persons have the legitimacy to continue therewith or to institute them:

a) In the case of death of the assumed father, a spouse not subject to judicial separation of persons and assets, other than the mother of the child, the descendants and ascendants;

b) In the case of death of the mother, the descendants and ascendants;

c) In case of death of the child, a spouse not subject to judicial separation of persons and assets, and the descendants.

2. The right to repudiation granted to the persons mentioned in the previous paragraph lapses if the proceedings are not instituted within ninety days counting from:

a) The death of the husband or mother, or of the posthumous birth of a child, in the case of subparagraphs a) and b);

b) The death of the child, in the case of the subparagraph c).

ARTICLE 1725

(Absence)

In the case of justified absence by the holder of the right to repudiate paternity, the proceedings referred to in article 1719 may be brought by the persons mentioned in the previous article, within one hundred and eighty days counting from the date on which the sentence becomes final.

ARTICLE 1726

(Passive legitimacy)

1. In repudiation of paternity proceedings the mother, the child and the assumed father shall be taken to court when they do not appear as plaintiffs.

2. In case of death of the mother, of the child or of the assumed father, the proceedings shall be brought or continued against the persons referred to in article 1724, and, in the absence thereof, a special trustee appointed; if, however, there are heirs or legatees whose rights might be affected by the substance of the petition, the proceedings shall not have effects against them if they are not brought to court.

3. When the child is an unemancipated minor, the court shall appoint him or her a special trustee.

SUBSECTION II
Recognition of paternity

Division I
General provisions

ARTICLE 1727
(Forms of recognition)

Recognition of a child born or conceived out of wedlock is made by adoption or legal decision in investigation proceedings.

ARTICLE 1728
(Cases in which recognition is not permitted)

1. Recognition contrary to the parentage that appears in the birth registration is not permitted until the registration is rectified, declared null or cancelled.
2. The provision set out in the previous paragraph does not invalidate an adoption made in any of the forms mentioned in subparagraphs b), c) and d) of article 1733, although it shall have no effect, pending the registration thereof.

Division II
Adoption

ARTICLE 1729
(Personal and free nature of adoption)

Adoption is a free personal act; it may, nevertheless, be made through an agent with special powers.

ARTICLE 1730
(Capacity)

1. Individuals aged over sixteen years have the capacity to adopt, if they are not interdicted for reasons of mental disorder or are not noticeably insane at the time of the adoption.
2. Minors, interdicted individuals not covered by the previous paragraph and incapacitated individuals do not need the authorization of parents, guardians or trustees in order to adopt.

ARTICLE 1731
(Non-declared maternity)

The fact that the maternity of an adoptee is not declared in the registration does not prevent the adoption.

ARTICLE 1732
(Prohibited contents)

1. The act of adoption does not contain clauses that limit or modify the effects attributed thereto by law, neither does it accept conditions or time limit.
2. Prohibited clauses or declarations do not invalidate the adoption, but are considered not to have been written.

ARTICLE 1733
(Form)

Adoption may be made:

a) By declaration made in the presence of a clerk of the civil registry;
b) By will;
c) By public deed;
d) By terms drawn up in court

ARTICLE 1734
(Time of adoption)

Adoption may be made, at all times, before or after the birth of the child or after the death thereof.

ARTICLE 1735
(Adoption of an unborn child)

Adoption of an unborn child is only valid if made following conception and the adopter identifies the mother.

ARTICLE 1736
(Adoption of a dead child)

Adoption following the death of the child only has effects in favour of his or her descendants.

ARTICLE 1737
(Adoption of adults)

1. The adoption of an adult or emancipated child, or of a predeceased child survived by descendants that are adults or emancipated only has effect if the child or the descendents, or in the case of interdicted individuals, the respective representatives, give their assent.
2. Such an assent may be given before or after the adoption, even if the adopter has died, in any of the following forms:

a) By declaration made in the presence of the civil registry official, recorded in the birth record and the adoption record, if this exists;
b) By authentic or certified document;
c) By terms drawn up in court in the proceedings in which the adoption was made.

3. Registration of the adoption is considered secret until the necessary assent has been given and, without prejudice to the provisions set out in the following paragraph, may only be invoked to allow the prior publication of the banns or in a petition for declaration of nullity or annulment of marriage.
4. Any interested party has the right to apply judicially for personal notification of the adoptee, of his or her descendants or legal representatives, in order to declare, within thirty days, if they give their assent to the adoption, and this is considered accepted in the absence of a reply and the registration is cancelled in the case of refusal.

ARTICLE 1738
(Irrevocability)
The adoption is irrevocable and, when made in a will, not prejudiced by revocation thereof.

ARTICLE 1739
(Repudiation)
1. An adoption that does not correspond to the truth is repudiable in court even after the death of the adopted individual.
2. Proceedings may be brought, at all times, by the adopter, adopted individual, even if he or she has consented to the adoption, by any other person who has a moral or patrimonial interest in its substance or by the Public Prosecution Service.
3. The mother or the child, when plaintiffs, shall only have to prove that the adopter is not the father if the latter demonstrates this it is likely that he cohabited with the mother of the adopted individual during the period of conception.

ARTICLE 1740
(Annulment by error or coercion)
1. An adoption may be annulled by the court at the request of the adopter when vitiated by error or by moral coercion.
2. Only error in the circumstances that contributed decisively to the conviction of the paternity is relevant.
3. The annulment proceedings lapse within one year, counting from the moment in which the adopter learnt of the error or in which the coercion ceased, unless he or she is an unemancipated minor or interdicted due to mental disorder; in this case, the proceedings do not lapse until one year after he or she has come of age, become emancipated or the interdiction has been lifted.

ARTICLE 1741
(Annulment due to incapacity)
1. The adoption is annullable due to incapacity of the adopter at the request thereof or of his or her parents or guardian.
2. Proceedings may be brought within one year, counting:

a) From the date of the adoption when brought by the parents or guardian;
b) From his or her coming of age or emancipation, when brought by the adopter before the legal age required by law;
c) From the end of the incapacity, when brought by the adopter interdicted for reasons of mental disorder or for being noticeably insane.

ARTICLE 1742
(Death of the adopter)
If the adopter dies without having filed annulment proceedings or during the course thereof, his or her descendants or ascendants, as well as all those who prove to have had their succession rights prejudiced by the adoption, have the legitimacy to file them or to continue therewith during the year following the adopter's death.

ARTICLE 1743

Adoption following judicial investigation)

Adoption made after the filing of a paternity investigation suit against a person other than the adopter shall be rendered null, and the respective record shall be cancelled if the suit is deemed to have been filed on justified grounds.

DIVISION III

Ascertainment of paternity as a matter of procedure

ARTICLE 1744

(Unknown paternity)

Whenever the birth of a minor is registered with only maternity established, the civil registrar shall forward a full certificate of the registration to the court so that the identity of the father is ascertained as a matter of procedure.

ARTICLE 1745

(Ascertainment as a matter of procedure)

1. Whenever possible, the court shall hear the mother about the paternity she attributes to her child.
2. If the mother indicates who the father is, or the court is made aware by other means of the identity of the supposed father, the latter shall also be heard.
3. In the event that the supposed father confirms paternity, the filiation record shall be drawn up and the certificate forwarded to the competent registry office.
4. If the supposed father denies or refuses to confirm paternity, the court shall proceed with the necessary diligences to ascertain the viability of the paternity investigation suit.
5. If the court concludes that there is secure proof of paternity, it shall order the case to be submitted to the agent of the Office of the Public Prosecutor at the competent court, in order to file the investigation suit.

ARTICLE 1746

(Cases in which the ascertainment of paternity is not admitted as a matter of procedure)

The suit referred to in the previous article may not be filed in the following cases:
a) If the mother and the supposed father are blood relatives or relatives by affinity in straight line or second-degree relatives in collateral line;
b) If two years have elapsed since the date of birth.

ARTICLE 1747

(Investigation based on criminal suit)

When intercourse is deemed proved in a criminal suit in a manner to constitute grounds for investigating paternity and it is shown that the aggrieved party had a child at a time that proves that the legal period of conception includes the time of the criminal offence, the Office of the Public Prosecutor shall file the corresponding investigation suit, irrespective of the time limit set in subparagraph (b) of article 1746.

ARTICLE 1748
(Cross-reference)
The provisions of articles 1691, 1692 and 1693 are applicable to paternity investigation suits as a matter of procedure, with the necessary adaptations.

DIVISION IV
Judicial recognition

ARTICLE 1749
(Paternity investigation)
Paternity may be recognized in a suit specifically filed by the child, if maternity is already established or if the recognition of both is requested jointly.

ARTICLE 1750
(Legitimacy when the mother is a minor)
A minor mother has the legitimacy to file a suit on behalf of the child without her parents' authorization, but she shall always be represented by a special trustee appointed by the court.

ARTICLE 1751
(Assumption of paternity)
1. Paternity is presumed in the following cases:
a) When the child has been reputed as a child and treated as such by the supposed father, as well as reputed as a child by the public;
b) When there is a letter or some other written document in which the supposed father unequivocally states his or her paternity;
c) When during the legal period of conception there was an enduring common life under conditions which are analogous to the marital condition or enduring concubinage relationship between the mother and the supposed father;
d) In cases when the supposed father has seduced the mother during the legal period of conception, if the latter was a virgin and a minor at the time of the seduction, or if her consent was obtained by means of a promise of marriage, abuse of trust or abuse of authority.
e) When it is proven that the supposed father had sexual relations with the mother during the legal period of conception.

2. The assumption is deemed contested when there are serious doubts about the paternity of the person under investigation.

ARTICLE 1752
(Joint investigation)
Cases of paternity investigation suits shall allow joint investigation of children of the same mother, in relation to the same supposed father.

ARTICLE 1753
(Cross-reference)
The provisions of articles 1697 to 1699 and 1701 are applicable to paternity investigation suits, with the necessary adaptations.

CHAPTER II
Effects of parentage

SECTION I
General provisions

ARTICLE 1754
(Duties of parents and children)

1. Parents and children owe each other respect, help and assistance.
2. The duty of assistance includes the obligation of providing alimony and of contributing, during their life together and in accordance with their own resources, towards the expenses of family life.

ARTICLE 1755
(Name of the child)

1. The child shall use the surname of his or her father and mother or of just one of them.
2. The choice of first name and last name of minor children belongs to the parents; in the absence of an agreement, the decision shall be made by the court, in harmony with the interests of the child.
3. If maternity or paternity is established after the registration of the birth, the last name of the child may be altered under the terms of the previous paragraphs.

ARTICLE 1756
(Attribution of the surnames of the husband of the mother)

1. When paternity is not established, the surnames of the husband of the mother may be attributed to the minor child, provided that the mother and her husband state that this is their wish before a clerk of the civil registry.
2. Within two years of reaching the age of majority or emancipation, the child may request the elimination of the last names of the husband of the mother from his or her name.

SECTION II
Parental authority

SUBSECTION I
General principles

ARTICLE 1757
(Duration of parental authority)

Children shall be subject to parental authority until they reach the age of majority or emancipation.

ARTICLE 1758

(Content of parental authority)

1. Parents, in the interest of their children, have the duty of caring for their safety and health, providing their sustenance, directing their education, representing them, even the newly born, and managing their assets.

2. Children owe obedience to their parents; parents, however, depending on the maturity of their children, shall take into account their opinion on all important family matters and recognize their autonomy in organizing their own lives.

ARTICLE 1759

(Expenses pertaining to sustenance, safety, health and education of children)

Parents are not obligated to provide their children with sustenance or paying for the expenses related to their safety, health and education to the extent that the children are able to bear those expenses with the proceeds from their work or other income.

ARTICLE 1760

(Expenses with older or emancipated children)

If a child reaches the age of majority or emancipation and has not yet completed a professional degree, the duty referred to in the previous article shall be maintained if it is within reason to demand it from the parents and for the length of time usually required for the professional degree to be completed.

ARTICLE 1761

(Representation power)

1. The power of representation includes the exercise of all rights and fulfilment of all the obligations of the child, except for acts which are purely personal, those that the minor child has the right to practice in a personal and free manner, and all acts related to assets that the parents are not obligated to manage.

2. If there is any conflict of interest, the resolution of which depends on a public authority, between any of the parents and the child subject to parental authority, or between the children, even when one of them is of full age, the minor children shall be represented by one of more special trustees appointed by the court.

ARTICLE 1762

(Waiver restrictions)

Parents may not waive their parental authority nor any other rights especially granted by those powers, without prejudice to the provisions regarding adoption set out herein.

ARTICLE 1763

(Children conceived out of wedlock)

The father or the mother may not introduce in the conjugal household children conceived within the matrimony who are not children of his or her spouse, without the consent of that spouse.

ARTICLE 1764
(Alimony to the mother)
1. Any father who is not united by matrimony to the mother of the child is obligated, starting from the date when paternity is established, to provide her with alimony during the period of the pregnancy and the first year of the life of the child, without prejudice to any compensation to which she might be entitled by law.
2. The mother may request alimony in the paternity investigation suit and she is entitled to provisional alimony if the suit was filed before the completion of the period of time referred to in the previous paragraph, provided that the court deems the recognition probable.

SUBSECTION II
Parental authority related to the children

ARTICLE 1765
(Education)
1. It shall be incumbent upon the parents, , depending on their possibilities, to promote the physical, intellectual and moral development of their children.
2. Parents shall provide their children, especially those with physical and mental limitations, with an appropriate general and professional education corresponding, as much as possible, to the aptitudes and inclinations of each child.

ARTICLE 1766
(Religious education)
It shall be incumbent upon the parents to decide on the religious education of children younger than sixteen years of age.

ARTICLE 1767
(Abandonment of parental home)
1. Minor children may not abandon the parental home, or the home provided to them by their parents, or be removed from it.
2. If they do abandon it or are removed from it, any of the parents and, in cases of emergency, the persons to whom they have entrusted their children, may reclaim them, and, if necessary, resort to the competent court or authority.

ARTICLE 1768
(Living with siblings and ascendants)
Parents may not unjustifiably deny their children the company of their siblings and ascendants.

SUBSECTION III
Parental authority relative to assets of the children

ARTICLE 1769

(Exclusion of management)

1. Parents are not entitled to manage the following:

a) Assets of children that result from succession of which the parents have been excluded, due to indignity or disinheritance;

b) Assets received by a child through donation or succession against the will of the parents;

c) Assets bequeathed or donated to the child with an exclusion of parental management.

d) Assets acquired by children older then sixteen years old, due to their work.

2. Exclusion of management, under the terms of subparagraph c) of the previous paragraph, is allowed even in the case of assets that belong to the child as a portion in his or her parents' estate .

ARTICLE 1770

(Acts with validity depending on court authorization)

1. As representatives of their children, the following actions are restricted to parents as representatives of their children, unless they are so authorized by the court:

a) Disposing of or encumbering any assets, except in the cases of onerous disposition of things that are susceptible to loss or deterioration;

b) Voting at general meetings of corporations on deliberations that may result in their dissolution;

c) Acquiring commercial or industrial establishments or continuing to operate enterprises received by the children through succession or donation;

d) Entering into co-partnerships, partnerships with limited liability or establishing joint-stock companies;

e) Contracting bills, including bills resulting from any securities transmissible by endorsement;

f) Guaranteeing or accepting third party debts;

g) Borrowing money;

h) Contracting obligations when the fulfilment of such obligations is due after reaching the age of majority;

i) Granting credit rights;

j) Repudiating inheritances or bequests;

l) Accepting inheritances, donations or bequests with encumbrances or entering into voluntary partition;

m) Leasing assets for periods longer than six years;

n) Entering into agreements or filing for allotment partition or liquidation and partition of corporate assets;

o) Negotiating transactions or committing to arbitration related to acts referred to in the previous subparagraphs or negotiating credit agreements with creditors.

2. The investment of money or capital of the minor child for acquisition of assets is not deemed included in the restriction stated in subparagraph (a) of the previous paragraph.

ARTICLE 1771
(Acceptance and rejection of benefits)

1. If the child receives any inheritance or bequest, or in case of any proposal for donation that needs to be accepted, the parents shall accept the gift, if they are able to do it legally, or request the court an authorization to accept it or reject it within thirty days.
2. Once that period of time has elapsed starting from the date the succession was opened or the donation proposal was made and the parents have not taken any steps, the child or any of his or her relatives, the Office of the Public Prosecutor, the party making the donation or any party interested in the bequeathed assets may request the court to notify the parents to fulfil the provisions of the previous paragraph within the period of time assigned to them.
3. If the parents make no statements within the established period of time, the gift shall be deemed accepted, except if the court decides that denial is more appropriate for the minor child.
4. When the parents request judicial authorization in order to accept the inheritance when they need it, they may request authorization to agree upon the respective extrajudicial partition, as well as the appointment of a special trustee to grant it as a representative of the minor child, when they are entitled to succession with the minor or in the case of several incapacitated persons entitled to it and represented by them.

ARTICLE 1772
(Appointment of a special trustee)

1. If the minor child has no one to legally represent him or her, any of the persons mentioned in paragraph 2 of the previous article has the legitimacy to request the court to appoint a special trustee for the purpose of applying the provisions of paragraph 1 of the same article.
2. When the court denies authorization to the parents to reject the gift, a trustee shall also be appointed as a matter of procedure, for the purpose of its acceptance.

ARTICLE 1773
(Prohibition from acquiring assets from the child)

1. Without authorization from the court, the parents may not lease or acquire, directly or through an intermediary, even at a public auction, any assets or rights of the child subject to parental authority or become assignees of credits or other rights against him or her, except in the cases of legal subrogation, bidding in probate cases or awards in court-authorized partitions.
2. It is understood that the acquisition is made by an intermediary person in the cases referred to in paragraph 2 of article 514.

ARTICLE 1774

(Annullable acts)

1. Any acts practiced by the parents in breach of the provisions of articles 1770 and 1773 are annullable at the request of the child until one year after reaching the age of majority or emancipation, or, if the child dies in the meantime, upon request of his or her heirs, excluding the responsible parents themselves, within one year counting from the death of the child.
2. Annulation may be requested after the end of that time limit if the child or his or her heirs show that they only became aware of the revoked act six months prior to bringing the action.
3. The annulment suit may also be filed by the persons with legitimacy to request the inhibition of the parental authority, as long as they do it during the year following the practice of the revoked acts and before the minor child reaches the age of majority or emancipation.

ARTICLE 1775

(Confirmation of the acts by the court)

The court may confirm the acts practiced by the parents without the necessary authorization.

ARTICLE 1776

(Assets that are property of the parents)

1. Any assets produced by a minor child who is living in the company of his or her parents as a result of work that is rendered to his or her parents and performed with means or capital belonging to his or her parents is the property of the latter.
2. The parents shall give to their child a portion of the produced assets, or compensate him or her in any other way for his or her work; however, compliance with this duty may not be judicially required.

ARTICLE 1777

(Income produced by the assets of the child)

1. The parents may use the income produced by the assets of the child to pay the expenses involved in his or her sustenance, safety, health and education, as well as, within fair limits, other needs related to family life.
2. In the case of only one parent exercising parental authority, this parent is entitled to use the income of the child under the terms of the previous paragraph.
3. The use of income derived from the assets pertaining to the child as a portion in his or her parents' estate may not be excluded by the donor or the testator.

ARTICLE 1778

(Managerial exercise)

The parents shall manage the assets of their children with the same care they use to manage their own.

ARTICLE 1779
(Bonds)
1. Without prejudice to the provisions of article 1802, parents are not obligated to provide a bond as managers of the assets of the child, except when the child is entitled to securities and the court, in consideration of the value of the assets, deems it necessary upon request of the persons with legitimacy for the action of inhibiting the exercise of parental authority.
2. If the parents do not provide the bond required of them, they shall be subject to the provisions of article 1393.

ARTICLE 1780
(Waiver from reporting)
Parents are not obligated to submit reports about their management, without prejudice to the provisions of article 1802.

ARTICLE 1781
(End of management)
1. Parents shall deliver to their children, as soon as they reach the age of majority or emancipation, all the assets belonging to them; in the cases where their parental authority or management ceases for other reasons, the assets shall be delivered to the legal representative of the child.
2. Any furniture shall be returned in the condition it was found; if there is none, the parents shall pay the respective value, except if they have been consumed jointly with the child or have perished due to reasons not attributable to the parents.

SUBSECTION IV
Exercise of parental authority

ARTICLE 1782
(Parental authority during matrimony)
1. During matrimony the exercise of parental authority belongs to both parents.
2. The parents exercise parental authority by mutual agreement and in cases when this authority is absent in issues of particular relevance, any one of them may ask a court for assistance and the court shall try conciliation; if conciliation is not possible, the court shall hear the child older than fourteen years of age before making its decision, except when this is not advisable due to justifiable circumstances.

3. In cases of absence of agreement of the parents in issues of particular relevance in which, for reasons of urgency, it is not possible to resort to court in accordance with the preceding paragraph, the stance of the parent who better safeguards the interests of the child or that implies less sacrifice for the child's security, health, moral formation or education shall prevail.

ARTICLE 1783
(Acts practiced by one of the parents)
1. If one of the parents practices an act which is part of the exercise of parental authority, it shall be assumed that he or she is acting in agreement with the other parent, except when the law explicitly requires the consent of both parents or the act is of particular relevance; the absence of agreement is not opposable to third parties in good faith.
2. The third party shall refuse to intervene in the act practiced by one of the spouses when, as provided in the previous paragraph, the agreement of the other spouse is not assumed or when his or her opposition is known.

ARTICLE 1784
(Disqualification of one of the parents)
When one of the parents is not able to exercise parental authority due to absence, incapacity or other impediment, the exclusive right to exercise it belongs to the other parent.

Article 1785
Widowhood)

Once the matrimony has been dissolved by death of any of the spouses, parental authority shall be exercised by the survivor.

ARTICLE 1786
(Parental authority of parents not united by matrimony who live as husband and wife)

Where parentage is ascertained with respect to both parents and the latter are not united by matrimony but live as husband and wife, exercise of parental authority shall belong to both, who shall exercise it by common agreement, and the rules of paternal authority under matrimony shall apply.

If the marriage is dissolved due to the death of one of the spouses, parental authority shall belong to the surviving spouse.

ARTICLE 1787
(Cases where there is a need to regulate the exercise of the parental authority
1. In the cases of divorce, judicial separation of persons and assets, declaration of nullity or annulment of marriage, the fate of the child, the alimony and the manner in which it shall be provided to the latter are regulated by agreement of the parents, subject to the endorsement of the court; the approval is denied if the agreement does not correspond to the interests of the minor child, including the interest in maintaining a relationship of close proximity with that parent to whom he or she is not entrusted.
2. In the absence of an agreement, the court shall decide, in harmony with the interests of the minor child, including the desire to maintain a relationship of close proximity with the parent to whom he or she is not entrusted, and the guardianship of the minor child may fall on either parents, in the case of any of the circumstances foreseen in article 1800, to a third party or child re-education or welfare establishment.

ARTICLE 1788

(Exercise of parental authority in cases where there is a need for its regulation

1. Parental authority is exercised by the parent to whom the child was entrusted.
2. The parents may, however, agree, as provided in paragraph 1 of the previous article, to jointly exercise parental authority, making decisions about issues related to the life of the child under conditions identical to the ones in effect for that purpose during the matrimony.
3. The parents may also agree, as provided in paragraph 1 of the previous article, that certain matters are resolved by joint agreement of both parents or that the management of the assets of the child is under the responsibility of the parent to whom the minor child has not been entrusted.
4. The parent who is not exercising parental authority is entitled to oversight powers regarding the education and life conditions of the child.

ARTICLE 1789

(Exercise of parental authority when the child is entrusted to a third person or to an educational or welfare establishment)

1. When the child is entrusted to a third party or educational or welfare establishment, the latter shall have the powers and duties of the parents as required by the appropriate performance of their functions.
2. The court shall make the decision about which parent shall exercise parental authority regarding issues not affected by the provision of the previous paragraph.

ARTICLE 1790

(Survival of the parent to whom the child was not entrusted)

In the event of any of the circumstances foreseen in article 1799, the court may decide that upon the death of the parent to whom the minor child is delivered, the guardianship shall not be transferred to the surviving one; the court shall then appoint the person to whom the minor child shall be temporarily entrusted.

ARTICLE 1791

(Separation)

The provisions of articles 1787 to 1790 are applicable to cases where the spouses are separated de facto as well as to cases of separation de facto of parents who are not united by matrimony but who live as husband and wife.

ARTICLE 1792

(Parentage ascertained to only one of the parents)

If the parentage of a minor child born outside of the marriage is found to be ascertained regarding only one of the parents, this parent shall have parental authority.

ARTICLE 1793

(Parentage ascertained to both parents not united by matrimony)

1. When parentage is ascertained regarding both parents and they have not contracted matrimony after the birth of the minor child, the exercise of parental authority belongs to the parent who has the de facto guardianship of the child.
2. In the absence of an agreement, the court shall make a decision in harmony with the interests of the minor child. The provision set out in paragraph 2 of article 1787 is applicable in this case, with the necessary adaptations.
3. The parents may submit for endorsement of the court an agreement related to parental authority, namely an agreement according to which the exercise of parental authority belongs to both jointly. The provisions of articles 1782 to 1784 are applicable in this case, with the necessary adaptations.

ARTICLE 1794

(Regulation of the exercise of parent al authority)

If the parents live as husband and wife, the provisions of article 1786 shall apply.

SUBSECTION V

Inhibition and limitations of the exercise of parental authority

ARTICLE 1795

(Full right inhibition)

1. The following are considered inhibited in full right from the exercise of parental authority:
a) Persons definitively convicted of crimes to which the law attributes this effect;
b) Persons interdicted or incapacitated due to a mental disorder;
c) Persons absent from the time when the temporary trustee was appointed.
2. The following are considered inhibited in full right from representing their children and managing their assets: minor children who are not emancipated and all persons interdicted or incapacitated who are not referred to in subparagraph b) of the previous paragraph.
3. All judicial decisions regarding inhibition of the exercise of parental authority are communicated to the competent court as soon as they become final, so that the necessary measures can be taken.

ARTICLE 1796

(Cessation of inhibition)

The full right inhibition of the exercise of parental authority ceases with the lifting of the interdiction or incapacitation and with the end of the trusteeship.

ARTICLE 1797

(Inhibition of the exercise of parental authority)

1. Upon request by the Office of the Public Prosecutor, any relative of the minor child or person to whose guardianship the minor child is entrusted de facto or by law, the court may order the inhibition of exercise of parental authority whenever any of the parents is guilty of failure in his or her duties towards his or her children resulting in serious harm to them or when he or she shows no condition to fulfil those duties due to inexperience, illness, absence or other reasons.
2. The inhibition may be total or limited to representation and management of the assets of the children; it may encompass both parents or only one of them and refer to all the children or only one or some.
3. Except as otherwise decided, the effects of the inhibition encompassing all the children extend to the ones born after it is decreed.

ARTICLE 1798

(Lifting of the inhibition)

1. The inhibition of the exercise of parental authority decreed by the court shall be lifted when the causes that gave its origin cease.
2. The lifting may be requested by the Office of the Public Prosecutor, at all times, or by either parent after one year has elapsed from the date the sentence ordering the inhibition became final or any other that has not acceded to another request for lifting.

Article 1799

(Maintenance

Under no circumstance shall inhibition of the exercise of parental authority exonerate the parents from the duty to provide maintenance for the child.

ARTICLE 1800

(Dangers for the safety, health, moral formation and education of the child)

When the safety, health, moral formation or education of a minor child are in danger and it is not a case of inhibition of the exercise of parental authority, the court may, upon request from the Office of the Public Prosecutor or any other person indicated in paragraph 1 of article 1796, order appropriate measures, namely entrust him or her to the third person or to an educational or welfare establishment.

ARTICLE 1801

(Exercise of parental authority while measures are in effect)

1. When any of the measures referred to in the previous article are ordered, the parents shall maintain their exercise of parental authority in everything which is proven not to be irreconcilable with it.
2. If the minor child has been entrusted to a third party or educational or welfare establishment, a visitation regime shall be established for the parents, except in exceptional cases, when the interests of the child make it unadvisable.

ARTICLE 1802
(Protection of the assets of the child)
1. When mismanagement endangers the assets of the child and it is not a case of inhibition of the exercise of parental authority, the court may, upon request from the Office of the Public Prosecutor or any relative, order the measures it deems appropriate.
2. With special regard to the value of the assets, the court may demand accountability of accounts and information about the management and status of the estate of the child and when these measures are not enough, the provision of bond or guaranty.

ARTICLE 1803
(Revocation or alteration of decisions)
All decisions ordering measures under the provisions of articles 1800 to 1802 may be revoked or altered, at all times, by the court that ordered it, upon request from the Office of the Public Prosecutor or any one of the parents.

SUBSECTION VI
Registration of decisions related to parental authority

ARTICLE 1804
(Mandatory registration)
The following shall be, as a matter of procedure, communicated to the competent civil registry office for registration:
a) Any decisions regulating the exercise of parental authority or endorsing an agreement about such exercise;
b) Any decisions endorsing the reconciliation of spouses judicially separated from persons and assets;
c) Any decisions about cessation of regulation of parental authority in cases of reconciliation of spouses who are de facto separated;
d) Any decisions involving the inhibition of the exercise of parental authority, its temporary suspension or the imposition of measures to limit that power.

ARTICLE 1805
(Consequences of failure to register)
None of the judicial decisions referred to in the previous article may be invoked against third parties in good faith until the registration is actually made.

SECTION III
Means to provide parental authority

SUBSECTION I
General provisions

ARTICLE 1806
(Minor children subject to guardianship)

1. Minor children are mandatorily subject to guardianship in the following instances:
a) If the parents are deceased;
b) If they are inhibited from parental authority regarding personal management of the child;
c) If they have been de facto impeded from exercising parental authority for more than six months;
d) If they are unknown.
2. In the case of de facto impediment of the parents, the Office of the Public Prosecutor shall take all necessary measures to defend the minor child, irrespective of the expiration of the time limit referred to in subparagraph c) of the previous paragraph, and may, for that effect, promote the appointment of a person who shall, on behalf of the minor child, perform those legal transactions of an urgent nature or that result in proven benefit to the latter.

ARTICLE 1807
(Asset management)

In the following cases a regime for managing the assets of minor children provided for in articles 1847 and following shall be created:
a) When the parents have been merely excluded, inhibited or suspended from managing all the assets of the incapacitated person or some of them, if a manager has not been appointed under any other title;
b) When the entity competent to appoint the guardian decides to entrust to a third party, wholly or in part, the management of the assets of the minor child.

ARTICLE 1808
(Guardianship and management as a matter of procedure)

1. Whenever minor children are found in one of the situations provided for in the previous articles, the court shall, as a matter of procedure, promote the establishment of guardianship or asset management.
2. Any administrative or judicial authority, as well as clerks of the civil registry, who become aware of such situations during the exercise of their functions, shall communicate the fact to the competent court.

ARTICLE 1809
(Guardianship and management agencies)

1. Guardianship is exercised by a guardian and by the family council.
2. Management of the assets is exercised by one or more managers and, if guardianship is established, by the family council.

ARTICLE 1810
(Responsibilities of the court)
1. Both guardianship and asset management are exercised under the surveillance of the court.
2. In addition to other responsibilities established by law, it is also incumbent upon the court to confirm or appoint guardians, asset managers and voting members of the family council, as the case may be.

ARTICLE 1811
(Mandatory nature of guardian's duties)
The positions of guardian, asset manager and voting member in the family council are mandatory and no one may be exonerated from them except in cases provided for in the law.

SUBSECTION II
Guardianship

DIVISION I
Guardian appointments

ARTICLE 1812
(Persons with competence to be guardians)

The position of guardian shall fall upon the person appointed by the parents or by the court.

ARTICLE 1813
(Guardian appointed by the parents)
1. The parents may appoint guardians to minor children for the event of their death or incapacitation; if only one of the parents exercises parental authority, he or she shall retain that power.
2. In the case of death of one of the parents who has appointed a guardian for the minor child and survival of the other, the appointment shall be deemed effective if it is not revoked by the latter in the exercise of parental authority.
3. The appointment of the guardian and respective revocation shall only be valid when stated in a will or in an authentic or certified document.

ARTICLE 1814
(Appointment of several guardians)
When several guardians are appointed for the same child, as provided for in the previous article, the guardianship shall fall upon each one of the appointees according to their order of appointment, when the precedence between them is not specified otherwise.

ARTICLE 1815

(Guardian appointed by the court)

1. When the parents have not appointed a guardian or there has been no confirmation of a guardian, it shall be incumbent upon the court to appoint a guardian, after hearing the family council, from among blood relatives or relatives by affinity of the minor child or from among the persons who have in fact cared for the minor child or are caring for him or her or have demonstrated affection for him or her.

2. Before appointing a guardian, the court shall hear all minor children who have completed fourteen years of age.

ARTICLE 1815

(Guardianship of several siblings)

Guardianship of two siblings shall fall upon one single guardian whenever possible.

ARTICLE 1817

(Persons who may not be guardians)

1. The following persons may not be guardians:

a) Minor children not yet emancipated and those interdicted or incapacitated;

b) Those who are noticeably insane, even when they are not interdicted or incapacitated;

c) Persons with bad behaviour or whose way of life is unknown;

d) Those with their parental authority inhibited or suspended in full or in part;

e) Those who have been removed or are suspended from another guardianship or position of voting member in a family council due to failure to fulfil their respective obligations;

f) Those with a pending lawsuit with a minor child or his or her parents, or against whom a lawsuit was filed less than five years ago;

g) Those whose parents, children or spouses have now, or have had less than five years ago, a lawsuit with the minor child or his or her parents;

h) Those who are personal enemies of the minor child or his or her parents;

i) Those who have been excluded by the father or mother of the minor child, under the same terms whereby any one of them may appoint a guardian;

j) Judicial magistrates or those of the Office of the Public Prosecutor who have positions in the county of residence of the minor child or of the location of the assets.

2. Those incapacitated due to prodigality, bankruptcy or insolvency, as well as also those inhibited or suspended from parental authority or removed from guardianship as it relates to asset management, may be appointed guardians, provided that they are merely in charge of the guardianship and management of the minor child.

ARTICLE 1818
(Exemption from guardianship)

1. The following persons may be exempted from guardianship:
a) The President of the Republic and the members of the government;
b) Bishops and priests in charge of healing souls, as well as religious persons living in community;
c) Military personnel in active service;
d) Persons residing outside of the county where the minor child has most of his or her assets, except when the guardianship includes only the management of the minor child or when the assets of the minor child have little value;
e) Persons with more than three descendants under their care;
f) Persons exercising another guardianship or trusteeship;
g) Persons older than sixty five years of age;
h) Persons who are not blood relatives or relatives by affinity of the minor child in straight line or his or her collateral relatives until the fourth degree;
i) Persons unable to exercise the guardianship without serious inconvenience or harm due to illness, absorbing professional occupation or lack of economic means.
2. Persons exempted from guardianship may be compelled to accept it if the reason for the exemption ceases.

DIVISION II
Rights and obligations of the guardian

ARTICLE 1819
(General principles)

1. The guardian has the same rights and obligations as the parents, with the modifications and restrictions stated in the following articles.
2. The guardian shall exercise the guardianship with the diligence expected of a dutiful paterfamilias.

ARTICLE 1820
(Income from the assets of the ward)

The guardian may only use the income from the assets of the ward for the sustenance and education of the ward and for the management of his or her assets.

ARTICLE 1821

(Acts restricted to the guardian)

The guardian shall be restricted from undertaking the following acts:

a) Disposing of the assets of the minor child gratuitously;

b) Leasing or acquiring, directly or through an intermediary, even at a public auction, the assets or rights of the minor child, or become an assignee of credits or other rights against him or her, except in the cases of legal subrogation, bidding in probate cases or awards in court-authorized partitions;

c) Entering, on behalf of the ward, into any contracts that might oblige him or her to personally practise certain acts except when the obligations contracted are necessary for his or her education, settlement or occupation;

d) Receiving any gifts from the ward, directly or through an intermediary, by way of an act among living persons or due to death, if those have been given after his or her appointment and before the approval of the respective accounts, without prejudice to the provisions relating to testamentary bequests set out in paragraph 3 of article 2056.

ARTICLE 1822

(Acts conditional upon court's authorization)

1. The guardian, as a representative of the ward, needs authorization from the court for the following:

a) Practicing any of the acts mentioned in paragraph 1 of article 1770;

b) Acquiring moveable assets or real estate as capital investment of the minor child;

c) Accepting inheritances, donations or bequests or entering into voluntary partition;

d) Contracting or settling obligations, except when they relate to alimony for the minor child or prove to be necessary for managing his or her property;

e) Filing legal suits, except those filed to collect periodic installments and those whose delay might cause loss;

f) Continuing to operate a commercial or industrial establishment that the minor child has received through succession or donation;

2. The court shall not grant any requested authorizations without first hearing the family council.

3. The provisions of paragraph 1 above shall not prejudice what is specifically established in relation to the acts practiced in a probate process.

ARTICLE 1823

(Nullity of acts practiced by the guardian)

1. Any acts practiced by the guardian in contravention of the provisions set out in article 1820 shall be null; the nullity, however, may not be invoked by the guardian or his or her heirs or by the intermediary person rendering the service.

2. The nullity may be remedied by way of confirmation of the ward, once he or she reaches the age of majority or emancipation, but only until such a time as the sentence becomes final.

ARTICLE 1824
(Other sanctions)
1. Acts practiced by the guardian in contravention of the provisions set out in subparagraphs a) and d) of paragraph 1 of article 1822 may be annulled as a matter of procedure by the court during the minorship of the ward, or upon request from any voting member in the family council or the ward himself or herself, up to five years after he or she reaches the age of majority or emancipation.
2. The heirs of the ward may also request annulment, provided that they do it before an equal period of time has elapsed since his or her or her death.
3. If the guardian files a suit in contravention of the provision of subparagraph e) of paragraph 1 of article 1822, the court shall, as a matter of procedure, order the suspension of the prosecution, following citation, until the necessary authorization is granted.
4. If the guardian continues to operate the commercial or industrial establishment of the ward without authorization, he or she shall be personally liable for all the damage, even if accidental, resulting from the operation.

ARTICLE 1825
(Confirmation of acts by the court)
The court, after hearing the family council, may confirm all acts practiced by the guardian without the necessary authorization.

ARTICLE 1826
(Remuneration of the guardian)
1. The guardian has the right to be remunerated.
2. If the remuneration has not been established by the parents of the minor child at the act of appointment of the guardian, the court shall adjudicate, after hearing the family council, and the remuneration shall not exceed, in any case, the tenth part of the net income of the assets of the minor child.

ARTICLE 1827
(List of assets of the minor child)
1. The guardian shall submit a list of assets and liabilities of the ward within the time limit established by the court.
2. If the guardian is a creditor of the minor child but has not listed the respective credit, he or she may not require compliance during the guardianship unless he or she proves that he or she did not know about the debt on the date when the list was submitted.

ARTICLE 1828
(Accountability)

1. The guardian shall be obliged to render accounts to the court at the end of his or her management period or during the course thereof, as and when required by the court.

2. The family council shall render its opinion on the accounts prior to the court's decision thereof.

3. Where the accounts are rendered at the end of the management period, the court shall hear the former ward or his or her heirs, if the guardianship has been terminated; otherwise, the new guardian shall be heard.

ARTICLE 1829
(Liability of the guardian)

1. The guardian is liable for any losses he or she might cause to the ward, whether wilfully or through fault of his or her own.
2. If, upon viewing of the accounts, the guardian is found to be in overdraft, the amount of the overdraft shall bear legal interest from the time when the accounts are approved, if interest has not been added for another reason since an earlier date.

ARTICLE 1830
(Right of the guardian to be compensated)

1. Expenses legally incurred by the guardian shall be paid even if, through no fault of his or her own the minor child has not benefited in any way from them.
2. Any positive balances favouring the guardian shall be satisfied by the first income received by the minor child; however, in the event of urgent expenses of which the guardian cannot be made aware, the balance shall bear interest if the prompt payment of the debt is not provided otherwise.

ARTICLE 1831
(Contesting approved accounts)

The approval of the accounts does not prevent them from being judicially repudiated by the ward within two years of his or her reaching the age of majority or emancipation, or by his or her heirs within the same period of time, counting from the death of the ward, if he or she dies before the end of the time limit that would have been granted thereto if he or she were alive.

DIVISION III
(Removal and exemption of the guardian)

ARTICLE 1832
(Removal of the guardian)

The following may be removed from guardianship:
a) Guardians who default on the duties inherent in their position or reveal a lack of aptitude for the exercise thereof;
b) Guardians who find themselves in any situation that would impede their appointment due to facts that take place after their appointment to the position.

ARTICLE 1833
(Removal action)
The removal of the guardian is ordered by the court, after hearing the family council, upon request by the Office of the Public Prosecutor, any relative of the minor child or the person to whose custody he or she is de facto or legally entrusted.

ARTICLE 1834
(Exoneration of the guardian)
The guardian may, upon his or her own request, be exempted by the court in the following cases:
a) If he or she survives any of the exemption requirements;
b) At the end of three years, in the cases where the guardian could have exempted himself or herself from accepting the position, if the cause for exemption persists.

DIVISION IV
Family council

ARTICLE 1835
(Composition)
The family council is constituted by two voting members chosen under the terms of the following article, and by the agent of the Office of the Public Prosecutor, who presides over it.

ARTICLE 1836
(Choice of voting members)
1. The voting members of the family council are chosen from among the blood relatives or relatives by affinity of the minor child, taking into account, namely, the proximity of the degree, the friendship relationships, the aptitudes, the age, the place of residence and the interest shown in the person of the minor child.
2. In the absence of blood relatives or relatives by affinity who may be appointed under the terms of the previous paragraph, it is incumbent upon the court to choose the voting members from among the friends of the parents, neighbours or other people who may have an interest in the minor child.
3. Whenever possible, one of the voting members of the family council shall be someone in, or represent, the paternal line and the other in the maternal line of the minor child.

ARTICLE 1837
(Incapacity, Exemption
1. The provisions set forth in articles 1817 and 1818 are applicable to the voting members of the family council.
2. Other grounds for exemption is the fact that the appointed voting member resides outside of the mainland or the adjacent island in which the minor child has his or her habitual residence.

ARTICLE 1838
(Responsibilities)
It is incumbent upon the family council to oversee the performance of the guardianship duties and fulfil all other responsibilities specifically granted thereto by law.

ARTICLE 1839
(Proguardian)
1. The actions of the guardian are monitored on a permanent basis by a proguardian, who is one of the voting members of the family council.
2. The proguardian shall, whenever possible, represent a line of relationship different from that of the guardian.
3. If the guardian is a germane sibling of the minor child or spouse of a germane sibling or if both voting members of the family council are of the same line of relationship or do not belong in any of them, it is incumbent upon the court to choose the proguardian.

ARTICLE 1840
(Other functions of the proguardian)
Besides monitoring the actions of the guardian, the proguardian shall also be responsible for the following:
a) Cooperate with the guardian in his or her guardianship duties such as managing certain assets of the minor child under the conditions established by the family council and in agreement with the guardian;
b) Replace the guardian in his or her absences and impediments; in this case, the other voting member of the family council shall serve as a proguardian;
c) Represent the minor child in or out of court, when his or her or interests are in opposition to those of the guardian and the court has not appointed a special trustee.

ARTICLE 1841
(Convening the council)
1. The family council is convened by determination of the court or the Office of the Public Prosecutor, or by request of one of the voting members, guardian, asset manager, any relative of the minor child, or the minor child himself or herself, when older than sixteen years of age.
2. The convening notice shall state the main purpose of the meeting and be sent to each one of the voting members eight days in advance.
3. If any of the voting members is absent, the council shall be convened for another date; if again any of the voting members is missing, all deliberations shall be made by the Office of the Public Prosecutor and the other voting member shall be heard, if present.
4. Unjustified absences from family council meetings shall cause the absent member to be liable for any damage suffered by the minor child.

ARTICLE 1842
(Organization)
1. The voting members of the family council are obligated to appear in person.
2. The family council may deliberate that the guardian, asset manager, any relative of the minor child, the minor child himself or herself or, still, a person outside of the family whose opinion may be helpful, shall be present at all or some of its meetings; in either case, however, only the voting members of the council are entitled to vote.
3. The same prerogatives are valid for the Public Prosecution

ARTICLE 1843
(Unremunerated position)
The position of voting member in the family council is unremunerated.

ARTICLE 1844
(Removal and exemption)
All provisions related to removal and exemption of guardians are applicable to the voting members of the family council, with the necessary adaptations.

DIVISION V
Termination of guardianship

ARTICLE 1845
(Time of termination)

Guardianship shall terminate:
a) When the age of majority is reached, except for the provisions in article 127;
b) With emancipation, except for the provisions in article 1536;
c) With adoption;
d) With the end of inhibition of parental authority;
e) With the cessation of parental impediment;
f) With establishment of maternity or paternity.

DIVISION VI
Guardianship of minor children entrusted to
educationalor welfare establishments

ARTICLE 1846
(Exercise of guardianship)
1. When there are no persons able to exercise the guardianship, the minor child is entrusted to public welfare under the terms of the respective legislation and the director of the public or private establishment where the child has been admitted shall perform the role of guardian.
2. In this case, there shall be no family council and no proguardian shall be appointed.

SUBSECTION III
Asset management

ARTICLE 1847
(Appointment of manager)
In the case of management of assets for the minor child under the terms of article 1806, the appointment of the manager shall be in compliance with the provisions relating to the appointment of a guardian, except for the cases provided for in the following articles.

ARTICLE 1848

(Appointment by a third party)

A donor or bequeather may appoint a manager in case of a gift or bequest to a minor child, but only in relation to assets included in such gift or bequest.

ARTICLE 1849

(Plurality of managers)

1. If the parents or a third party have appointed several managers and once the assets to be managed by each one of them have been determined, the criterion of preference by order of appointment is not applicable.
2. The court may also appoint several managers and establish which assets shall be managed by each one of them.

ARTICLE 1850

(Persons who may not be appointed as managers)

Besides the persons that the law does not allow to be guardians, the following may not be managers:

a) Persons incapacitated due to prodigality, persons who are bankrupt or insolvent, as well as those inhibited or suspended from parental authority or removed from guardianship related to asset management;

b) Persons convicted as perpetrators or accomplices of crimes related to larceny, theft, fraud, abuse of trust, fraudulent bankruptcy or insolvency and felonies against property in general.

ARTICLE 1851

(Rights and duties of managers)

1. Managers shall have the same rights and duties as guardians as far as their management is concerned.
2. The manager is the legal representative of the minor child in all acts related to the assets under his or her responsibility.
3. The manager shall provide to the parents or guardian, on account of the income derived from the assets, the amounts necessary for the alimony awards of the minor child.
4. Any disputes between the manager and the parents or guardian shall be settled by the court, after hearing the family council, if any.

ARTICLE 1852

(Removal and exemption. Termination of management)

Those provisions relating to removal and exemption of the guardian and termination of guardianship shall be applicable to the manager, with the necessary adaptations.

TITLE IV
ON ADOPTION

CHAPTER I
General provisions

ARTICLE 1853
(Establishment)

1. The adoption bond shall be established by way of a court order.
2. The case shall be initiated with an investigation related, namely, to the personality and health of the adopter and the adoptee, the competency of the adopter to raise and educate the adoptee, the family and economic situation of the adopter and the reasons behind the request for adoption.

ARTICLE 1854
(General requirements)

1. The adoption shall only be granted when real advantages for the adoptee are anticipated when it is based on legitimate reasons, when it does not involve unjust sacrifices for the other children of the adopter and when it is reasonable to foresee that a relationship similar to parentage might be established between the adopter and the adoptee.
2. The adoptee must have been under the care of the adopter during a sufficient amount of time to allow for an evaluation of the convenience to establish such a bond.

ARTICLE 1855
(Prohibition of several adoptions of the same adoptee)

While one adoption is still valid, another adoption may not be established regarding the same adoptee, except if the adopters are married to one another.

ARTICLE 1856
(Adoption by the guardian or legal asset manager)

The guardian or legal asset manager may only adopt the minor child once all accounts related to the guardianship or asset management are approved and his or her liability is settled.

ARTICLE 1857

(Trust with a view to a future adoption

1. In view of a future adoption, the court may entrust the minor to a couple, to an individual, or to an institution in any of the following situations:

a) If the minor is the offspring of incognito or deceased parents;

b) If a prior consent exists for the adoption;

c) If the parents have abandoned the minor;

d) If the parents, by action or omission, even where it is for clear incapacity owing to reasons of mental health, put at serious stake the security, health, moral formation or the education or development of the minor;

e) If the parents of a minor protected by a particular individual or an institution have shown clear lack of interest for the child in such a manner as to seriously compromise the quality and continuity of the affective ties proper of filiation during, at least, the three months preceding the request of trust.

2. In the event of the occurrence of the situations provided for in the previous paragraph, the court shall, as a matter of priority, take into consideration the rights and interests of the minor child.

3 The trust grounded in the situations provided for in subparagraphs a), c), d) and e) of the previous article may not be decided if the minor is living with an ascendant, collateral relative up to the third degree or guardian, except if those family members or the guardian are seriously endangering the safety, health, moral character or education of the minor child or if the court concludes that the situation is not appropriate to sufficiently protect the interests of the minor child.

4. The Office of the Public Prosecutor, the social services located in the residential neighbourhood of the minor child and the director of the public establishment or the management of the private institution where the minor child was received have legitimacy to request his or her judicial trust.

5. Once the judicial trust of the minor child is granted, the parents shall be inhibited from exercising parental authority.

CHAPTER II
Adoption

ARTICLE 1858
(Persons who may adopt)

1. Two persons who have been married for more than four years and are not either judicially separated from persons and assets or de facto separated, if both are older than 25 years.
2. Persons older than 30 years or, if the adoptee is a child of the spouse of the adopter, older than 25.
3. Persons wishing to adopt shall not be older than 60 years on the date when the minor child is entrusted to them. For persons 50 years old or older, the difference in age between the adopter and the adoptee must not be greater than 50 years.
4. The difference in age may, however, be greater than 50 years when there are justifiable reasons in exceptional cases, namely in cases of sets of siblings in which the difference in age is greater than the rule for just one or some of the siblings.
5. The provision in paragraph 3 above does not apply when the adoptee is a child of the spouse of the adopter.

ARTICLE 1859
(Person who may be adopted)

1. Minor children of the spouse of the adopter and those who have been entrusted to the adopter may be adopted.
2. Adoptee must be younger than 15 years on the date of the judicial petition for adoption; however, a child who is younger than 17 and not emancipated at that date may be adopted if he or she has been entrusted since an age not greater than 15 to the adopters or one of the adopters or in the case of children of the spouse of the adopter.

ARTICLE 1860

(Consent for adoption)

1. For adoption to take place, there must be consent from the following:

a) The adoptee older than twelve years, stated in a free manner and independently of external factors that may coerce or intimidate the manifestation of his or her free will;

b) The spouse of the adopter who is not judicially separated from persons and assets;

c) The parents of the adoptee, even if they are minor children and even if they do not exercise parental authority, provided there has been no judicial trust;

d) The ascendant, collateral relative until the third degree or the guardian, if any of these persons are in charge of the adoptee and live with him or her after the death of his or her parents.

2. In the case provided for in paragraph 2 of article 1857, when the trust is grounded in the situations provided for in subparagraphs c), d) and e) of paragraph 1 of article 1856, the consent of the parents shall not be required but the consent of the relative or guardian referred to therein shall be required, provided that there has been no judicial trust.

3. The court may waive consent from the following persons:

a) Persons supposed to give consent under the provisions of the previous paragraphs but are unable to use their mental faculties or if there are serious difficulties in hearing them for any other reason.

b) Persons referred to in subparagraph c) of paragraph 1 and in paragraph 2 in the event of any of the situations that, under the terms of subparagraphs c), d) and e) of paragraph 1 and of paragraph 3 of article 1857, would for allow judicial trust.

c) The parents of the adoptee inhibited from exercising parental authority, when 18 or 6 months, respectively, have elapsed from the date on which the sentence ordering inhibition or the one denying another request has become final, the Office of the Public Prosecutor or the former have not requested the lifting of the inhibition ordered by the court, under the terms of paragraph 2 of article 1797.

ARTICLE 1861

(Form and timing of the consent)

1. The consent shall be given before the judge, who must clarify the declarant about the meaning and effects of the act.

2. The consent of the parents may be given irrespective of the filing of the adoption case if the adoptee has been received by someone who intends to adopt him or her or at a public or private establishment, with no need to identify the future adopter.

3. The mother may not give her consent before six weeks after delivering the child.

ARTICLE 1862

(Revocation and lapse of the consent)

1. The consent for adoption may be revoked if the adoption process has not yet been initiated by the date the revocation is declared.

ARTICLE 1863
(Mandatory hearing)
The judge shall hear:
a) All children of the adopter older than 12 years;
b) The ascendants or, in their absence thereof, the adult siblings of the deceased parent, if the adoptee is a child of the spouse of the adopter and his or her consent is not necessary, except if they are deprived of their mental faculties or if, for any other reason, there is serious difficulty in hearing them.

ARTICLE 1864
(Secrecy of identity)
1. The identity of the adopter may not be disclosed to the natural parents of the adoptee, except if the former states explicitly that he or she is not opposed to such disclosure.
2. The natural parents of the adoptee may oppose, by way of an explicit statement, the disclosure of their identity to the adopter.

ARTICLE 1865
(Effects)
1. By way of the adoption, the adoptee acquires the status of child of the adopter and becomes part of the family of the latter, together with his or her descendants; the family relationship between the adoptee and his or her natural ascendants and collateral relatives ceases to exist, without prejudice to the provisions regarding matrimonial impediments set forth in articles 1491 to 1493.
2. If one of the spouses adopts the child of the other, the relationship between the adoptee and the spouse of the adopter and the respective relatives shall remain.

ARTICLE 1866
(Establishment and proof of natural parentage)
After the adoption has been granted, it is no longer possible to establish the natural parentage of the adoptee or provide proof of this parentage outside of the prior publication of banns.

ARTICLE 1867
(First and last names of the adoptee)
1. The adoptee shall lose his or her last names of origin and his or her new name is then constituted under the terms of article 1755, with the necessary adaptations.
2. Upon request of the adopter, the court may modify the first name of the minor child in exceptional cases, if such modification safeguards his or her interests, namely the right to a personal identity, and favours his or her integration into the family.

ARTICLE 1868
(Irrevocability of the adoption)
The adoption is not revocable, not even by agreement between the adopter and the adoptee.

ARTICLE 1869
(Review of the sentence)
1. Review of adoption sentences are only allowed in the following cases:
a) If the necessary consent of the adopter or the parents of the adoptee was never given;
b) If the consent of the parents of the adoptee was unduly given, provided that the conditions set in paragraph 3 of article 1860 have not been met;
c) If the consent of the adopter has been vitiated by an excusable and essential error as to the person of the adoptee;
d) If the consent of the adopter or the parents of the adoptee has been determined by moral coercion, provided that the harm with which they were illegally threatened is serious and the fear of its consummation was justified;
e) If the consent of the adoptee, when necessary, was lacking;
2. An error shall only be considered essential when the presumption is that the awareness of the reality would reasonably exclude the will to adopt.
3. The review shall not be granted, however, when the interests of the adoptee may be considerably affected, except if the reasons invoked by the adopter so require in an imperative manner.

ARTICLE 1870
(Legitimacy and deadline for the review)
1. The review provided for in paragraph 1 of the previous article may be requested in the following cases:
a) In the cases of subparagraphs a) and b), by the persons who did not give consent, within six months counting from the date when they were made aware of the adoption;
b) In the case of subparagraphs c) and d), by the persons whose consent was defective, within six months subsequent to the cessation of the defect;
c) In the case of subparagraph e), by the adoptee, up to six months counting from the date when he or she reached the age of majority or emancipation.
2. In the cases of subparagraphs a) and b) of the previous paragraph, the request for review may not be lodged after three years following the date on which the sentence granting the adoption became final.

TITLE V
OF ALIMONY

CHAPTER I
General provisions

ARTICLE 1871
(Concept)
1. Alimony is deemed to be everything that is indispensable for sustenance, shelter and clothing.
2. Alimony also includes instruction and education of the alimony recipient if the latter is a minor.

ARTICLE 1872

(Alimony amounts)

1. Alimony shall be proportional to the means of the person in charge of paying it and the needs of the person supposed to receive it.
2. In calculating alimony amounts, the ability of the recipient to support himself or herself shall be taken into consideration.

ARTICLE 1873

(Modality of payment of alimony)

1. Alimony shall be paid in monthly installments, unless there are agreements or legal provisions to the contrary, or reasons to justify exception measures.
2. However, if the person liable to pay the alimony claims inability to make the payments and wishes to fulfil his or her obligation solely with his or her home and company, a decision may be thus rendered.

ARTICLE 1874

(Time when alimony is due)

Alimony shall be due from the moment the action is filed or, if already established by the court or by agreement, from the moment when the debtor becomes in default, without prejudice to the provisions in article 2136.

ARTICLE 1875

(Temporary alimony)

1. Until the alimony payments are not definitively established, the court may, upon request of the alimony recipient, or as a matter of procedure if the recipient is a minor, grant temporary alimony, to be reasonably quantified at the discretion of the court.
2. Restitution of the temporary alimony already received shall not be allowed in any case.

ARTICLE 1876

(Unavailability and pledging restrictions)

1. The right to alimony may not be waived or transferred, although alimony does not necessarily have to be requested and overdue installments may be waived.
2. Alimony credit may not be pledged and the person liable to pay the alimony may not exempt himself or herself by way of compensation, even in the case of installments already overdue.

ARTICLE 1877
(Persons obligated to pay alimony)
1. The following persons, in the order stated below, have the obligation to pay alimony:
a) The spouse or former spouse;
b) The descendants;
c) The ascendants;
d) The siblings;
e) The uncles, while the recipient is a minor;
f) The stepfather and the stepmother, in the case of minor stepchildren who are in charge or have been in charge of the minor at the time of the death of the spouse.
2. Among the persons designated in subparagraphs b) and c) of the previous subparagraph, the obligation is deferred according to the legitimate order of succession.
3. If any of the designated persons cannot make the alimony payments or is unable to fully pay his or her dues, the liability shall be transferred to the subsequent designated persons.

ARTICLE 1878
(Plurality of designees)
1. Considering the number of people designated to pay alimony, all of them shall be liable proportionally to their quotas as legitimate heirs of the alimony recipient.
2. If any of the persons thus designated is unable to satisfy his or her obligation, the liability shall be transferred to the remaining persons.

ARTICLE 1879
(Donations
1. If the alimony recipient has any assets received in donation, the persons designated in the previous articles are not obligated to pay alimony, provided that the donated assets are enough to ensure the support of the donor.
2. In this case, the obligation to pay alimony falls, wholly or in part, on the donee(s) in proportion to the value of the donated assets; such an obligation shall be transferred to the heirs of the donee.

ARTICLE 1880
(Alterations in alimony)
If the circumstances that led to the determination of alimony payments change after the payments are established by the court or by an agreement by the interested parties, the previously quantified alimony may be either reduced or increased, as the case may be, or other persons may be obligated to pay them.

ARTICLE 1881
(Stoppage of the alimony obligation)
1. The obligation to pay alimony shall cease:
a) With the death of the liable person or the alimony recipient;
b) When the person making the payments is unable to continue to make them or the person receiving them no longer needs them;
c) When the creditor seriously breaches his or her duties regarding the liable person.
2. The death of the liable person or his or her inability to continue to make the payments shall not render the recipient unable to exercise his or her rights in relation to others who are equally or successively encumbered.

ARTICLE 1882
(Other alimony obligations)
1. The provisions of this chapter, provided that they are not in opposition to the manifest will or the special provisions of the law, are applicable, with the necessary corrections, to any alimony obligations having as their source a legal transaction.
2. The provisions of this chapter are also applicable to all other cases of alimony imposed by the law to the extend that they can be adjusted to the respective precepts.

CHAPTER II
Special provisions

ARTICLE 1883
(Alimony related to spouses)
For the duration of the conjugal partnership, the spouses are reciprocally obligated to pay alimony under the terms of article 1563.

ARTICLE 1884

(Divorce and judicial separation of persons and assets)

1. The following persons are entitled to alimony in the event of divorce:

a) Spouses not deemed guilty or, when both are guilty, not deemed culpable in the divorce sentence, if the divorce has been decreed with grounds on article 1656 or subparagraphs a) or b) of article 1658.

b) The defendant spouse, if the divorce has been decreed with grounds on subparagraph c) of article 1658;

c) Any of the spouses, if the divorce has been decreed by mutual consent or, in the case of litigious divorce, if both are deemed equally guilty.

2. Exceptionally, the court may, for the sake of equity, grant alimony to the spouse who would not be entitled under the terms of the previous paragraph, taking into consideration, in particular, the duration of the marriage and the collaboration rendered by this spouse to the economy of the couple.

3. When calculating the amount of alimony, the court shall take into consideration the age and state of health of the spouses, their professional qualifications and employment possibilities, the time that they will have to dedicate eventually to the raising of common children, their income and profits and, in general, all the circumstances that might influence the needs of the spouse receiving the alimony and the possibilities of the one giving it.

4. The provisions of the previous paragraphs are applicable in case of a decision ordering judicial separation of persons and assets.

ARTICLE 1885

(Marriage declared null or annulled)

In the cases of marriages deemed null or annulled, the spouse who entered into the marriage in good faith shall keep the right to receive alimony after the respective decision becomes final or is entered into the register.

ARTICLE 1886

(Attribution of alimony to the surviving spouse)

1. In the case of death of one of the spouses, the widow(er) has the right to receive alimony from the income generated by the assets left by the deceased.

2. In such cases, the alimony shall be paid by the heirs or legatees to whom the assets have been transmitted, according to the proportion of the respective amount.

3. The attribution shall be registered when it encumbers any real estate or movable assets subject to registration.

ARTICLE 1887

(Cessation of the alimony obligation)

In all cases referred to in the previous articles, the right to alimony ceases when the recipient gets married or if he or she is proven undeserving of the benefit due to his or her moral behaviour.

BOOK V
LAW OF SUCCESSIONS

TITLE I
ON SUCCESSIONS IN GENERAL

CHAPTER I
General provisions

ARTICLE 1888
(Concept)

Succession is defined as the entitlement by one or more persons to the legal patrimonial relationships of a deceased person and the consequent restitution of the assets that used to belong to that person.

ARTICLE 1889
(Object of the succession)

1. Legal relationships that must terminate with the death of the respective title holder shall not constitute object of succession due to their nature or by virtue of the law.

2. Waivable rights may also terminate with the death of the title holder, if the latter so wishes.

ARTICLE 1890
(Titles to inheritance)

The succession is deferred by law, will or contract.

ARTICLE 1891
(Kinds of legal succession)

Legal succession may be legitimate or through legitimate heirs, depending on the ability of the author to request its removal.

ARTICLE 1892
(Contractual succession)

1. Contractual succession is deemed to occur when a person waives the succession of a living person or disposes of his or her own succession or the succession of a third party when this is still not open.
2. Succession contracts are only admitted in the cases provided for in the law and all other cases are null, without prejudice to the provisions of paragraph 2 in article 880.

ARTICLE 1893
(Partition during lifetime)
1. A contract whereby a person makes a donation between living persons, with or without reserve of usufruct, of all his or her assets or parts thereof to one or several of the supposed legitimate heirs, with the consent of the others, and the donees pay or commit to pay to the latter the amount of the parts they are proportionally assigned of the donated assets.
2. If another legitimate heir appears or becomes known, he or she may demand his or her corresponding part in cash.
3. The returns in cash, in the case of payments which are not promptly made, are subject to updates under general provisions.

ARTICLE 1894
(Types of successors)
1. Successors are heirs or legatees.
2. Heirs are defined as those who succeed in full or in one quota of the estate of the deceased and legatees are defined as those who succeed in specific assets or amounts.
3. Heirs are those who succeed in the remainder of the assets of the deceased, with no specification of the assets.
4. The usufructuary, even when his or her right encompasses the entire estate, is considered legatee.
5. The qualification granted by the testator to his or her successors does not grant them the title of heir or legatee in contravention of the provisions of the previous paragraphs.

CHAPTER II
Opening of succession and summoning of heirs and legatees

SECTION I
Opening the succession

ARTICLE 1895
(Occasion and Location)
The succession opens at the moment of the death of its author and at the location of his or her last domicile.

ARTICLE 1896
(Summoning of heirs and legatees)
1. Once succession is opened, the persons summoned to obtain title to the legal relationships of the deceased shall be the heirs of the first order of succession, provided that they have the necessary capacity to be successors.
2. If the heirs of the first order of succession do not wish or are unable to accept it, the subsequent ones shall be summoned, and so forth successively; restitution in favour of the latter shall retroact to the moment the succession was opened.

SECTION II
Succession capacity

ARTICLE 1897
(General principles)

1. Besides the State, all persons born or conceived at the time of the opening of succession, provided they are not excepted by the law, may be successors.
2. For the purposes of succession by will or contract, the following may also be successors:
a) Newborns not yet conceived who are children of a specific person who is alive at the time the succession is opened;
b) All legal persons and corporations.

ARTICLE 1898
(Incapacity due to unworthiness)

1. The following persons lack succession capacity due to unworthiness:
a) Persons convicted as perpetrators or accomplices of murder, even when not consummated, against the author of the succession or against his or her spouse, descendant, ascendant, adopter or adoptee.
b) Persons convicted of vicious slander or perjury against the same persons in connection with a criminal offence corresponding to a prison sentence longer than two years, whatever its nature;
c) Persons who induced the author of the succession, by deceitfulness or coercion, to file, revoke or modify the will or prevented him or her from doing it;
d) Persons who subtracted, hid, discarded, falsified or suppressed the will before or after the death of the author of the succession or took advantage of any of these facts.

ARTICLE 1899
(Moment of the conviction and criminal offence)

1. The conviction referred to in subparagraphs a) and b) of the previous article may occur after the opening of the succession, but only the previous criminal offence is relevant to that effect.
2. Where the establishment of an heir or the appointment of a legatee is dependent on the suspensive condition, the criminal offence committed until the occurrence of the suspensive condition is relevant.

ARTICLE 1900
(Statement of unworthiness)

The action intended to obtain the statement of unworthiness may be filed within two years counting from the opening of the succession or within one year counting from either the conviction for the criminal offences determining it or the date on which the causes of unworthiness provided for in subparagraphs c) and d) of article 1898 became known.

ARTICLE 1901
(Effects of unworthiness)
1. Once unworthiness is declared, the restitution of the succession to the person unworthy of inheriting is deemed non-existent and he or she shall, for all intents and purposes be considered as a bad faith possessor of the respective assets.
2. In legal succession, the capacity of the person unworthy of inheriting does not encroach upon the right to represent his or her descendants.

ARTICLE 1902
(Rehabilitation of the person unworthy of inheriting)
1. A persons incurring in unworthiness, even when unworthiness has already been judicially declared, shall reacquire his or her succession capacity if the author of the succession explicitly rehabilitates him or her in a will or public deed.
2. In the absence of explicit rehabilitation but when the person unworthy of inheriting is contemplated in a will when the testator already knew the cause of the unworthiness, he or she may succeed within the limits of the testamentary disposition.

SECTION III
Right of representation

ARTICLE 1903
(Concept)
Succession representation occurs when the law calls the descendants of an heir or legatee to occupy the position of the person who was unable or did not wish to accept the inheritance or bequest.

ARTICLE 1904
(Scope of representation)
Representation may take place in both legal and testamentary succession, but with the restrictions provided for in the following articles.

ARTICLE 1905
(Representation in testamentary succession)
1. The right of representation in testamentary succession shall be granted to the descendants of the person who died before the testator or the person who repudiated the inheritance or bequest, if there is no other cause for forfeiture of the title to inheritance.
2. There shall be no representation in the following cases:
a) If a substitute to the heir or legatee is appointed;
b) In relation to the beneficiary of a trust by will, under the terms of paragraph 2 of article 2156;
c) In the case of a bequest of usufruct or of other personal right.

ARTICLE 1906

(Representation in legal succession)

In cases of legal succession, the representation always takes place in straight line in order to benefit the descendants of children of the author of the succession and, in collateral line, to benefit the descendants of siblings of the deceased, whatever the degree of relationship in one case or the other.

ARTICLE 1907

(Representation in cases of repudiation and incapacity)

The descendants shall represent their ascendant, even if they have repudiated the succession or are incapacitated before him or her.

ARTICLE 1908

(Partition)

1. In the event of representation, each lineage shall be entitled to what the respective ascendant would succeed.
2. When the lineage includes several branches, the same procedure shall be used for the purpose of subdivision.

ARTICLE 1909

(Extent of representation)

Representation shall take place even when all members of the various lineages are in the same degree of relationship relative to the author of the succession or if there is only one lineage.

CHAPTER III

Estate in abeyance

ARTICLE 1910

(Concept)

Estate in abeyance is deemed to be defined as an inheritance which is open but not yet accepted or declared vacant for the State.

ARTICLE 1911

(Management)

1. Persons entitled to inherit, if they have not yet accepted or repudiated the inheritance, are not inhibited from providing for the management of the assets if any damage might result from the delay in the measures to be taken.
2. In the case of several heirs, any of them may practice urgent acts of management; however, if there is opposition from any of them, the will of the ones in greater number shall prevail.
3. The provisions of this article shall not rule out the possibility of appointment of a trustee to the inheritance.

ARTICLE 1912

(Trustee of estate in abeyance)

1. If it becomes necessary to avoid loss or deterioration of the assets due to the absence of someone to manage them legally, the court shall appoint a trustee to the estate in abeyance, upon request from the Department of Justice Office of the Public Prosecutor or any interested party.
2. The provisions regarding the temporary trusteeship of the assets of the absentee shall be applicable, with the necessary adaptations, to the trusteeship of the inheritance.
3. The trusteeship shall terminate with the cessation of its determining reasons.

ARTICLE 1913

(Notice to heirs)

1. If the person entitled to inherit, being a known individual, is called to the inheritance and fails to accept it or repudiate it within the following fifteen days, the court, upon request of the Office of the Public Prosecutor or any interested party, may serve him or her a notice requiring a statement of acceptance or repudiation within the set deadline.
2. In the absence of a statement or if no legal repudiation document is presented within the established deadline, the inheritance is deemed accepted.
3. If the notified individual repudiates the inheritance, all immediate heirs shall be notified without prejudice to the provisions of article 1931 and then on successively, until there is no person favouring the State succession.

CHAPTER IV

Acceptance of inheritance

ARTICLE 1914

(Effects)

1. The ownership and possession of the inherited assets are acquired by acceptance, irrespective of their material seizure.
2. The effects of the acceptance are retroactive to the moment when succession was opened.

ARTICLE 1915

(Plurality of persons entitled to inherit)

In the case of several persons entitled to inherit, the inheritance may be accepted by one or several of them and repudiated by the remaining ones.

ARTICLE 1916

(Types of acceptance)

1. The inheritance may be accepted in an absolute manner or in such a manner as to benefit the probate process.
2. Any testamentary clauses that impose directly or indirectly one or another kind of acceptance shall be deemed as not in writing.

ARTICLE 1917

(Acceptance to benefit the probate process)

Acceptance to benefit the probate process shall be through a request for judicial probate under the terms of the procedural law or with an intervention in pending probate.

ARTICLE 1918

(Acceptance under conditions, with a deadline, or partial)

1. An inheritance may not be accepted under conditions or with a deadline.
2. An inheritance may not be accepted only in part either, except in the cases provided for in the following article:

ARTICLE 1919

(Testamentary and legal rebate)

1. If someone is called to an inheritance simultaneously or successively, by will and by law, and accepts or repudiates it by one of the titles, it shall be understood that he or she is accepting or repudiating it equally by the other; he or she may, however, accept or repudiate it by the first in spite of having repudiated or accepted it by the second if he or she was not aware of the existence of the will at that time.
2. The legitimate heir who is also called to an inheritance by will may repudiate it according to the available quota and accept it according to the will.

ARTICLE 1920

(Forms of acceptance)

1. Acceptance may be express or tacit.
2. Acceptance is deemed express when some written document states that the person called to an inheritance declares to accept it or assumes the title of heir with the intention of acquiring it.
3. Managerial acts practised by the person entitled to inherit do not imply tacit acceptance of the inheritance.

ARTICLE 1921

(Cases of tacit acceptance)

1. Disposition of the inheritance does not mean acceptance when it is done gratuitously, to benefit all those who would be entitled to it if the disposer had repudiated it.
2. A person, however, who declares that he or she waives the inheritance is deemed to accept the inheritance and dispose of it, if the purpose of the waiver is to favour only one or some of the persons entitled to inherit who would be called in his or her absence.

ARTICLE 1922

(Transmission)

1. If the person called to an inheritance dies without having accepted or repudiated it, the right to accept or repudiate it is transmitted to his or her heirs.
2. The transmission may only take place if the heirs accept the inheritance of the deceased, which does not stop them from repudiating, if they so wish, the inheritance to which the latter was called.

ARTICLE 1923
(Forfeiture)
1. The right to accept the inheritance forfeits at the end of ten years counted from the moment when the person entitled to inherit is made aware of having been called to it.
2. In the case of institution under suspensive condition, the time limit counts from the moment when the condition is met; in the case of constitution of a trust, from the moment when the death of the trustee or the extinguishment of the legal person become known facts.

ARTICLE 1924
(Annulment by deceitfulness or coercion)
The acceptance of the inheritance is annullable by deceitfulness or coercion but not grounded on simple error.

ARTICLE 1925
(Irrevocability)
Acceptance is irrevocable.

CHAPTER V
Repudiation of the inheritance

ARTICLE 1926
(Effects of repudiation)
The effects of repudiation of the inheritance are retroactive to the moment the succession was opened and if the person entitled to inherit repudiates it, he or she shall be deemed as not called to the inheritance, except for purposes of representation

ARTICLE 1927
(Form)
Repudiation is subject to the form required for disposition of the inheritance.

ARTICLE 1928
(Repudiation under conditions, with a deadline, or partial)
1. The inheritance may not be repudiated under conditions or with a deadline.
2. The inheritance may not be repudiated in part only either, except as provided for in article 1919.

ARTICLE 1929
(Annulment by deceitfulness or coercion)
The repudiation of the inheritance is annullable by deceitfulness or coercion, but not grounded on simple errors.

ARTICLE 1930
(Irrevocability)
The repudiation is irrevocable.

ARTICLE 1931
(Subrogation of creditors)
1. The creditors of the repudiator may accept the inheritance on his or her behalf, as provided for in articles 540 and following.
2. Acceptance shall take place within a period of six months counting from the date on which the repudiation became known.
3. Once the creditors of the repudiator are paid, the remainder of the inheritance shall not benefit him or her but the immediate heirs.

CHAPTER VI
(Burden on the inheritance)

ARTICLE 1932
(Liability of the inheritance)
The inheritance shall be liable for funeral and related expenses pertaining to its author, the burden with the testamentary succession, the management and liquidation of the hereditary assets, the payment of the debts of the deceased, and the fulfilment of the bequests.

ARTICLE 1933
(Scope of the inheritance)
The inheritance will include:
a) All subrogated assets in lieu of inheritance assets by way of a direct exchange;
b) The price of the disposed of ;
c) Assets acquired with inheritance money or valuables, provided that the provenance of the money or valuables is duly mentioned in the acquisition document;
d) The fruit received until partition.

ARTICLE 1934
(Preferences)
1. The inheritance creditors and legatees enjoy preferential right over the personal creditors of the heir and the former over the latter.
2. All inheritance burdens are satisfied according to the order in which they appear in article 1932.
3. Preference is given to the five years subsequent to the opening of succession or constitution of the debt, if later, even when the inheritance has been partitioned; and it shall prevail even if some other creditor has acquired a real guarantee over the hereditary assets.

ARTICLE 1935

(Liability of the heir)

1. When inheritance is accepted to benefit a probate, only the inventoried assets shall incur in the respective burden, except when the creditors or legatees can prove the existence of other assets.
2. When the inheritance is accepted in an absolute way, the liability for the burden shall not exceed the amount of the inherited assets either but, in this case, it shall be incumbent upon the heir to prove that there are no values existing in the inheritance enough to comply with the burden.

ARTICLE 1936

(Liability of the usufructuary)

1. The usufructuary of the totality or of one quota of the assets of the deceased may advance the necessary amounts according to the assets under usufruct, to comply with the burden on the inheritance, and shall have the right to request from the heirs, once the usufruct is over, the restitution with no interest of the amounts he or she has spent.
2. If the usufructuary does not advance the necessary amounts, the heirs may demand the sale of the necessary assets under usufruct in order to comply with the burden, or pay them with their own money, and shall, in the latter case, acquire the right to receive the corresponding interest from the usufructuary.

ARTICLE 1937

(Alimony or life pension bequest)

1. The usufructuary of the totality of the assets of the deceased is obligated to fully comply with the bequest of alimony or life pension.
2. If the usufruct falls on a quota-portion of the assets, the usufructuary is obligated to contribute for the compliance of the alimony or life pension bequest only in proportion to this quota.
3. The usufructuary of assigned things is not obligated to contribute to the alimony or pension referred to above, if the burden has not been imposed on him or her explicitly.

ARTICLE 1938

(Rights and obligations of the heir in relation to the inheritance)

1. Heirs shall keep, in relation to the inheritance and until its full liquidation and partition, all the rights and obligations they had towards the deceased, with the exception of those that terminate with the death of the latter.
2. All amounts in cash of which the heir is a debtor before the inheritance shall be included in the heir’s quota.
3. If there is a need to present in court the rights and obligations of the heir and the heir is a sole provider for the couple, a special trustee shall be assigned to the inheritance, for that purpose.

CHAPTER VII
Petition for inheritance

ARTICLE 1939
(Petition action)

1. Heirs may judicially request the recognition of their succession capacity and consequent restitution of all assets of the inheritance or part thereof, against whomever has them as heir, or under another title or even with no title.
2. The action may be filed, at all times, without prejudice to the application of the rules of acquisitive prescription related to each one of the possessed things, and the provisions of article 1923.

ARTICLE 1940
(Disposition to ring third parties)

1. If the possessor of inheritance assets has disposed of them, in full or in part, to a third party, the petition action may also be brought against the acquirer, without prejudice to the disposer's liability for the value of the assets disposed of.
2. The action shall not be allowed, however, against third parties who have acquired from the apparent heir, under onerous title and in good faith, any established assets or any rights over them; in this case, being also in good faith, the disposer is only liable according to the rules of unjust enrichment.
3. Apparent heir is the one who is reputed an heir due to common or general error.

ARTICLE 1941
(Fulfilment of bequests)

1. If the will is declared null or annulled after fulfilment of bequests made in good faith, the supposed heir shall be acquitted before the true heir, delivering him or her the remainder of the inheritance, without prejudice to the right of the latter against the legatee.
2. The provision set out in the previous paragraph is extensive to all encumbered bequests.

ARTICLE 1942
(Filing of claim by only one heir)

1. In the case of various heirs, any one of them shall have legitimacy to claim separately the totality of the assets retained by the defendant and the latter may not claim that the assets do not belong to him or her entirely.
2. The provision set out in the paragraph above does not encroach upon the right reserved by the head of the household to request the delivery of the assets he or she is supposed to manage, under the terms of the following chapter.

CHAPTER VIII
Inheritance management

ARTICLE 1943
(Head of household)

The head of the household shall be responsible for the management of the inheritance, until its liquidation and partition.

ARTICLE 1944

(Establishment of head of household)

1. The position of head of household shall be assigned to the following persons, in the following order:

a) To the surviving spouse who is not judicially separated from persons or assets, if he or she is an heir or owns half of the couple's communal property;

b) The executor, except in cases of a declaration by the testator indicating otherwise;

c) The relatives who are legal heirs;

d) The testamentary heirs.

2. From among the relatives who are legal heirs, the closest in degree shall be preferred.

3. From among the legal heirs of the same degree of relationship or from among the testamentary heirs, preference shall be given to the ones who lived with the deceased for at least one year on the date of death.

4. When circumstances are equal, preference shall be given to the oldest heir.

ARTICLE 1945

(Inheritance distributed into bequests)

Once the entire hereditary estate has been distributed into bequests, the person serving as head of household and replacing the heirs shall be the legatee with the most benefits; if circumstances are equal, preference shall be given to the oldest legatee.

ARTICLE 1946

(Incapacity of the designated person)

1. If the preferred spouse, heir or legatee is incapacitated, his or her legal representative shall perform the role of head of household.

2. The trustee is deemed representative of the incapacitated person for the purposes of the previous paragraph.

ARTICLE 1947

(Designation by the court)

If all persons referred to in the previous articles exempt themselves or are removed, the court shall designate the head of household as a matter of procedure, upon request of any interested party or upon request from the Office of the Public Prosecutor in probate cases when it has a principal intervention.

ARTICLE 1948

(Designation by agreement)

The rules of the previous articles are not imperative; by agreement of all interested parties and the Office of the Public Prosecutor, in the cases when it has a principal intervention, any other person may be requested to manage the inheritance and all the other roles of the head of household may be assigned to another person.

ARTICLE 1949

(Exemption)

1. The head of household may exempt himself or herself or her herself from his or her responsibility, at all times, in the following circumstances:

a) If he or she is older than seventy years;

b) If he or she is unable, due to illness, to properly perform the roles;

c) If he or she resides outside of the area of jurisdiction of the District Court competent to conduct the probate;

d) If his or her obligations as head of household are incompatible with his or her duties in a public position he or she might occupy.

2. The provisions in this article do not encroach upon the discretion to accept the executorship and associated roles as head of household.

ARTICLE 1950

(Removal of head of household)

1. The head of household may be removed, without prejudice to further sanctions that may apply:

a) If he or she fraudulently concealed the existence of property belonging to the inheritance or of bequests made by the deceased, or if, also fraudulently, he or she declared bequests or expenses which are non-existent;

b) If he or she does not manage the inheritance prudently and zealously;

c) If he or she did not comply with the law of procedure in the probate;

d) If he or she is deemed incompetent to carry out that function.

2. Any interested party has the right to ask for his or her removal, as well as the Office of the Public Prosecutor, when it has a leading role.

ARTICLE 1951

(Property subject to management by the head of household)

1. The head of household manages the individual property of the deceased, and if that person is married under the regime of community of property, the property belonging to the couple.

2. Property bequeathed during the lifetime of the author of the succession is not considered inherited and continues to be managed by the donee.

ARTICLE 1952

(Handover of property)

1. The head of household may ask heirs or third parties to hand over property which he or she should manage and which is in their possession, and to bring against them possessory actions in order to remain in possession of the things which are subject to his or her management or to recover the possession thereof.

2. Heirs or third parties may also bring possessory actions against the head of household.

ARTICLE 1953

(Debt collection)

The head of household may collect active debts pertaining to the inheritance, when debt collection may be put at risk by delays or payment is made spontaneously.

ARTICLE 1954

(Sale of property and payment of expenses)

1. The head of household should sell fruit and other perishable goods, and is allowed to use the proceeds towards funeral and related expenses, as well as towards management expenses.
2. To pay for funeral and related expenses, as well as management expenses, the head of household may sell non-perishable fruit, inasmuch as this is necessary.

ARTICLE 1955

(Exercising other rights)

1. Apart from the cases mentioned in the previous articles, and without prejudice to the provisions set out in article 1952, rights regarding the inheritance may only be exercised jointly by all the heirs or against all the heirs.
2. The provision of paragraph 1 does not prejudice the rights attributed by the testator to the executor under the terms of articles 2188 and 2189, when the executor is the head of household.

ARTICLE 1956

(Handover of profits)

Any of the heirs or the spouse owning half of the property has the right to demand that the head of household distribute among all of them up to half of the profits they are entitled to, unless these are needed, even from that part, to cover management expenses.

ARTICLE 1957

(Rendering of accounts)

1. The head of household shall render accounts annually.
2. Those accounts show expenses and receipts, handed over by the head of household to the heirs or to the spouse owning half of the property, in accordance with the previous article, and also the interest that he or she paid out of his or her own pocket to pay for management expenses.
3. If there is a surplus, it shall be shared among the interested parties, according to their rights, after the sum needed to pay for expenses in the following year is deduced.

ARTICLE 1958

(Position held gratuitously)

The position of head of household is held gratuitously, without prejudice to the provisions of article 2194, if the position is held by the executor.

ARTICLE 1959

(Non-transmissibility)

The position of head of household is not transmissible during his or her lifetime or after death.

ARTICLE 1960

(Withholding property)

1. Any heir who withholds property from the legacy, deliberately concealing its existence, whether or not he or she is the head of household, loses any right to the concealed property in favour of the co-heirs, and becomes subject to the respective sanctions.
2. He who withholds property from the inheritance is considered a mere holder of that property.

CHAPTER IX
Liquidation of inheritance

ARTICLE 1961
(Liability of undivided inheritance)

The assets of the undivided inheritance shall be collectively liable for payment of its respective expenses.

ARTICLE 1962
(Payment of expenses after distribution)

1. After the distribution, each heir is liable responsible for expenses proportional to his or her share of the inheritance.
2. However, the heirs may decide that the payment be made with money or other assets that are set aside for that purpose, or that the liability fall on one or some of them.
3. Such decision is binding both for creditors and legatees; but if the former or the latter cannot be fully paid under the above terms, they may appeal against the remaining property and against the other heirs, under the general terms of the law.

ARTICLE 1963
(Redemption of third party encumbrances)

If there are encumbrances of third parties, of a redemptive nature, pending on certain properties of the inheritance, and there is enough money therein, any of the co-heirs or the spouse owning half of the property may demand that those encumbrances be redeemed before the distribution is made.

ARTICLE 1964
(Payment of third party encumbrances)

1. If property is included in the distribution subject to the encumbrances mentioned in the previous article, the value of those encumbrances, which shall be exclusively borne by the interested party to whom that property is destined, shall be deducted therefrom.
2. If no such deduction is made, the interested party who pays for the redemption shall have the right to be paid back by the other parties in the proportion of each one’s share. However, in case any of them is insolvent, his or her share shall be proportionally distributed among all of them.

CHAPTER X
Distribution of Inheritance

SECTION I
General provisions

ARTICLE 1965
(Right to demand distribution)

1. Any co-heir or spouse owning half of the property has the right to demand the distribution when he or she chooses to do so.
2. It is not possible to renounce the right to distribution, but it may be agreed to maintain the property undivided for a certain period, no longer than five years; it is lawful to renew this deadline, one or more times, through a new agreement.

ARTICLE 1966
(Form)

1. Distribution may be carried out extra-judicially when there is an agreement of all the interested parties, or by means of a judicial probate carried out in conformity with the procedural law.
2. A judicial probate is also carried out when the Office of the Public Prosecutor so decides, because it deems that the interest of the incapacitated person to whom the inheritance is passed implies beneficiary acceptance, and also in the cases in which any of the heirs cannot intervene in an extra-judicial distribution, because his or her whereabouts are unknown or because he or she has a permanent de facto incapacity.

ARTICLE 1967
(Sole beneficiary)

If there is only one beneficiary, the probate that is carried out in accordance with paragraph 2 of the previous article has as its sole aim to inventory the property and, eventually, be the basis for the liquidation of the inheritance.

SECTION II
Preferential attributions

ARTICLE 1968
(Right to live in the family home and right to use its contents)

1. The surviving spouse is entitled, at the moment of distribution, to be granted the right to live in the family home and the right to use its contents, compensating the co-heirs if his or her successory share together with the half he or she is eventually entitled to are exceeded.
2. The attributed rights described in the previous paragraph expire if the spouse does not live at the home for more than one year.
3. At the owners' request and if the court finds it necessary, it may compel the spouse to provide a bond or guarantee.

ARTICLE 1969
(Rights over the contents)
If the family home is not part of the inheritance, the provisions of the previous article shall be observed in relation to its contents, with the necessary adaptations.

ARTICLE 1970
(Concept of contents)
For the purpose of the provisions set forth in the previous articles, contents are the furniture and other objects or tools destined for the comfort, service or decoration of the house.

SECTION III
Collation

ARTICLE 1971
(Concept)
1. Descendants wishing to be part of the succession of their ascendant shall restitute to the goods of the inheritance the property and assets that were donated to them in life, in order to equalize shares: this restitution is called collation.
2. Expenses incurred under the provisions of article 1977 are considered donations for the purpose of collation.

ARTICLE 1972
(Descendants subject to collation)
Only presumptive compulsory heirs of the donor at the time of donation are subject to collation.

ARTICLE 1973
(Person on whom the obligation falls)
The obligation of verifying for collation purposes falls on the donee, if he or she succeeds the donor, or his or her representatives, even if they have not benefited from the gift.

ARTICLE 1974
(Donations made to spouses)
1. Property and valuables donated to the presumptive compulsory heir are not subject to collation.
2. If the donation was made to both spouses, only the part belonging to the presumptive heir is subject to collation.
3. The donation is not considered to have been made to both spouses just because they are married under the regime of community of property.

ARTICLE 1975
(How verification is carried out)
1. If all the heirs are in agreement, collation is made by ascribing a value to the donation or to the expenses incurred with the inheritance share, or through restitution of the donated property.
2. Even if the inheritance does not have enough property to match all of the heirs, the donations shall not be reduced, unless this implies damage to some of them.

ARTICLE 1976

(Value of donated property)

1. The value of donated property is that which it has at the opening of succession.
2. If property has been donated that the donee consumed, disposed of or encumbered, or which perished through his or her own fault, its value at the time of the opening of the succession remains the same as it would had it not been consumed, disposed of, or encumbered , or had it not perished.
3. Donations of money, as well as expenses related to them, which were borne by the donee, are updated according to the terms of article 485.

ARTICLE 1977

(Expenses subject and not subject to collation)

1. Everything which the deceased spent, gratuitously, in favour of his or her descendants is subject to collation.
2. Exceptions are made for expenses incurred with marriage, alimony, establishment and professional situation of descendants, inasmuch as they comply with the habits and socio-economic situation of the deceased.

ARTICLE 1978

(Fruits)

The fruits of the donated thing subject to collation, collected from the opening of the succession, shall be verified.

ARTICLE 1979

(Loss of the donated thing)

The donated thing which has perished during the lifetime of the author of the succession for reasons which cannot be ascribed to the donee, are not subject to collation.

ARTICLE 1980

(Exemption from collation)

1. Collation may be waived by the donor in the act of the donation or afterwards.
2. If the donation was accompanied by some kind of external formality, collation may be waived only by the same means or through a will.
3. Collation is presumed to be exempt in manual donations and remuneratory donations.

ARTICLE 1981

(Ascription to the unencumbered share)

1. If there is no need for collation, the donation is ascribed to the unencumbered share.
2. If, however, there is no need for collation because the donee rejects his or her inheritance without having descendants to represent him or her, the donation is ascribed to the encumbered share.

ARTICLE 1982
(Improvements to donated property)
In terms of improvements, the donee is rendered equivalent to the holder in good faith and, with the necessary adaptations, is subject to the provisions set out in article 1193 and following articles.

ARTICLE 1983
(Deteriorations)
The donee shall be answerable for deteriorations which he or she may have culpably caused to donated property.

ARTICLE 1984
(Donation of common property)
1. When the donation of common property is carried out by both spouses, only half shall be verified when one of them dies.
2. The value of each half shall be its worth at the time of the opening of its respective succession.

ARTICLE 1985
(Mortgage)
1. Any eventual reduction of donations subject to collation corresponds to a mortgage.
2. One may not register the donation of immovable property which is subject to collation without simultaneously registering the mortgage.

SECTION IV
Effects of Distribution

ARTICLE 1986
(Retroactivity of distribution)
Once the distribution has been carried out, each of the heirs is considered to be, from the opening of the inheritance, the sole successor of the property that is attributed to him or her, without prejudice to the provisions regarding fruits.

ARTICLE 1987
(Delivery of documents)
1. Once distribution has been completed, each co-heir receives the documents pertaining to the property that has been attributed to him or her.
2. Documents pertaining to the property that is attributed to two or more heirs shall be handed over to the one who has the largest share of the property, under the obligation of having to present them to the other interested parties, under the general terms of the law.
3. The documents pertaining to the entire inheritance shall be kept by the co-heir chosen by the interested parties, or to the one that is appointed by the court when there is no agreement, under the same obligation of having to present them to the other interested parties.

SECTION V
Repudiating distribution

ARTICLE 1988
(Grounds for repudiation)

Extra-judicial distribution may only be repudiated in those cases where its contracts may also be repudiated.

ARTICLE 1989
(Additional distribution)

The omission of inheritable property does not imply the nullity of the distribution, only the additional distribution of omitted property.

ARTICLE 1990
(Distribution of property not belonging to the inheritance)

1. If it included property which does not belong to the inheritance, the distribution is null and void as far as that part is concerned and, with the necessary adaptations and without prejudice to the provisions set out in the following paragraph, it is subject to the rules regarding the sale of third party property.
2. The person to whom the third party property is attributed is compensated by the co-heirs proportionately to their share of the inheritance; if, however, any of the co-heirs is insolvent, the others shall cover his or her share, in the same proportion.

CHAPTER XI
Disposal of inheritance

ARTICLE 1991
(Applicable provisions)

The disposal of inheritance or share of inheritance is subject to the rules of the legal transaction which originates it, with the exception of the provisions set out in the following articles.

ARTICLE 1992
(Object)

1. All benefits resulting from the expiry of legacies, encumbrances or trusts are presumed to be transmitted with the inheritance or share of the inheritance.
2. The share of the inheritance returned to the disposer, after the disposal, as a result of a trust or of the right to increase the shares, is presumed to be excluded from the disposal.
3. The diplomas and correspondence of the deceased are also presumed to be equally excluded from the disposal, as are family memorabilia of minor economic worth.

ARTICLE 1993
(Form)
1. The disposal of an inheritance or part thereof shall be done by public deed, if there is property which requires this form of disposal.
2. Excluding the case mentioned in the previous paragraph, the disposal shall be registered in a private document.

ARTICLE 1994
(Disposal of third party property)
Whoever disposes of an inheritance or part thereof without specifying the assets shall only be answerable for the disposal of third party property if he or she is not eventually considered heir.

ARTICLE 1995
(Succession in encumbrances)
The acquirer of an inheritance or part thereof succeeds in its respective encumbrances; but the disposer answers jointly for those encumbrances, save for the right of receiving from the acquirer full reimbursement of what he or she may have spent.

ARTICLE 1996
(Compensations)
1. The disposer for good and valuable consideration who may have disposed of inheritance property is obliged to return its respective value to the acquirer.
2. The acquirer by free gift or for good and valuable consideration is obliged to reimburse the disposer to the amount that he or she has spent in fulfilling inheritance encumbrances and to pay him or her what is owed of the inheritance.
3. The provisions of the previous paragraphs are statutory.

ARTICLE 1997
(Right to prefer)
1. Whenever a part of the inheritance is sold or given as payment to third parties, the co-heirs enjoy the right of preference in the same terms as this right is enjoyed by co-owners.
2. The deadline, however, to exercise this right, once the preference has been made public, is two months.

TITLE II
ON LEGITIMATE SUCCESSION

CHAPTER I
General provisions

ARTICLE 1998
(Opening of legitimate succession)
If the deceased has not disposed of part or all of his or her property he or she could dispose of at the time of death in a valid and effective manner, legitimate heirs are called to the succession.

ARTICLE 1999
(Categorizing legitimate heirs)
Legitimate heirs are the spouse, the relatives and the State, in this order and according to the rules of this legal instrument.

ARTICLE 2000
(Classes of persons entitled to inherit)
1. The order for calling heirs, without prejudice to the provisions of the title of adoption, is the following:
a) Spouse and descendants;
b) Spouse and ascendants;
c) Siblings and their descendants;
d) Other collaterals up to the fourth degree;
e) The State.
2. The surviving spouse is included in the first class of persons entitled to inherit, unless the author of the succession dies without leaving descendants and has ascendants, in which case he or she is included in the second class.
3. The spouse is not called to the inheritance if at the time of death of the author of the succession he or she is divorced or judicially separated from persons and assets, by a judicial sentence, which became or will become final, or if the divorce or separation sentence will be declared at a later stage, under the terms of the provision set out in paragraph 3 of article 1661.

ARTICLE 2001
(Preference of classes)
The heirs of each of the classes of persons entitled to inherit have right of preference in relation to the following classes.

ARTICLE 2002
(Preference by family degree)
Within each class, closer relatives have the right of preference in relation to more distant relatives.

ARTICLE 2003
(Succession per capita)
Relatives in each class succeed per capita or in equal parts, save for the exceptions established in this code.

ARTICLE 2004
(Ineffective summons)
1. If persons entitled to inherit included in the same class are summoned simultaneously to the inheritance and cannot or are unwilling to accept, their immediate successors are summoned instead.
2. If, however, only one or some of the persons entitled to inherit cannot or will not accept, their share shall be added to that of other persons entitled to inherit included in the same class who are competing with them for the inheritance, without prejudice to the provisions set down in article 2010.

ARTICLE 2005
(Right of representation)
The provisions set out in the three previous articles do not prejudice the right of representation, in the cases in which it may take place.

CHAPTER II
Succession of spouse and descendants

ARTICLE 2006
(General rules)
1. Sharing between spouse and children is done per capita, dividing the inheritance in as many parts as there are heirs; the share of the spouse, however, may not be less than one quarter of the inheritance.
2. If the author of the succession leaves no surviving spouse, the inheritance is divided among the children, in equal parts.

ARTICLE 2007
(Second degree relatives and next relatives)
The descendants of children who are not able or who do not wish to accept their inheritance are called to the succession, under the terms of article 2009.

ARTICLE 2008
(Succession of spouse, when there are no descendants)
In the absence of any descendants the spouse succeeds, without prejudice to the provisions set forth in the following chapter.

CHAPTER III
Succession of spouse and ascendants

ARTICLE 2009
(General rules)

1. If there are no descendants and the author of the succession is survived by spouse and ascendants, the spouse is entitled to two thirds of the inheritance, and the ascendants to the remaining third of the inheritance.
2. In the absence of a spouse, the ascendants are called to the totality of the inheritance.
3. Sharing between ascendants, in the cases of the preceding paragraphs, is carried out according to the rules established in articles 2002 and 2003.

ARTICLE 2010
(Accrue)

If any or some of the ascendants may not or will not accept, in the case mentioned in paragraph 1 of the article above, his or her part accrues to that of those of the other ascendants who are competing for succession; if there are none, it shall accrue to that of the surviving spouse.

ARTICLE 2011
(Succession of spouse, in the absence of descendants and ascendants)

In the absence of descendants and ascendants, the spouse is called to the totality of the inheritance.

CHAPTER IV
Succession of siblings and their descendants

ARTICLE 2012
(General rule)

In the absence of a spouse, descendants or ascendants, the siblings, and in their representation, their descendants are called to the succession.

ARTICLE 2013
(Full siblings and half siblings)

If there are full siblings and paternal or maternal half siblings competing for succession, the share of the inheritance of each of the full siblings or of the descendants who represent them, is equal to twice that of each of the others.

CHAPTER V
Succession of other collaterals

ARTICLE 2014
(Other collaterals up to the fourth degree)

In the absence of heirs of the previous classes, the remaining collaterals, up to the fourth degree, are called to the succession, always giving preference to the nearest relatives.

ARTICLE 2015
(Double relative)
The sharing is done per capita, even if some of those called to the succession are a double relative of the deceased.

CHAPTER VI
Succession of the State

ARTICLE 2016
(Summoning the State)
In the absence of a relative and all of the persons entitled to inherit, the State is called to the inheritance.

ARTICLE 2017
(Rights and obligations of the State)
In relation to the inheritance, the State has the same rights and obligations as any other heir.

ARTICLE 2018
(Non-necessity to accept and impossibility to repudiate)
The acquisition of the inheritance by the State, as a rightful successor, is a right, precluding the necessity to accept, and excluding the possibility of repudiating it.

ARTICLE 2019
(Declaration of vacant inheritance)
Having recognized judicially the absence of other legitimate persons entitled to inherit, the inheritance is declared vacant for the State in accordance with the laws of procedure.

TITLE III
ON COMPULSORY SUCCESSION

CHAPTER I
General provisions

ARTICLE 2020
(Compulsory legacy)
The compulsory legacy is the portion of property that the testator may not dispose of, as it is legally destined for rightful heirs.

ARTICLE 2021
(Rightful heirs)
The spouse, descendants and ascendants are considered rightful heirs, in the order and according to the rules established for compulsory succession.

ARTICLE 2022
(Compulsory legacy of the spouse)
The compulsory legacy of the spouse, if there are no descendants or ascendants to compete with, is half of the inheritance.

ARTICLE 2023
(Compulsory legacy of the spouse and children)
1. The compulsory legacy of the spouse and children, if there is competition, is of two thirds of the inheritance.
2. In the absence of a surviving spouse, the compulsory legacy of the children is of half or two thirds of the inheritance, depending on whether there is only one child, two or more.

ARTICLE 2024
(Compulsory legacy of descendants of second and following degrees)
The descendants of second and following degrees are entitled to the share that would be given to their ascendant, with each of their respective shares being calculated in accordance with the rules of rightful succession.

ARTICLE 2025
(Compulsory legacy of spouse and ascendants)
1. The compulsory legacy of spouse and ascendants, when there is competition, is of two thirds of the inheritance.
2. If the author of the succession leaves neither descendants nor surviving spouse, the compulsory legacy of the ascendants of is half or one third of the inheritance, depending on whether the parents are called, or the ascendants in the second and following degrees.

ARTICLE 2026
(Calculating the compulsory legacy)
1. To calculate the compulsory legacy, the value of the assets existing in the property of the author of the succession at the time of death, the value of the donated property, the expenses subject to collation and the debts of the inheritance shall be considered.
2. The value of the assets which are not subject to collation is not considered in the calculation of the value of the compulsory legacy, according to article 1976.

ARTICLE 2027
(Prohibition of encumbrances)
The testator may not impose encumbrances on the compulsory legacy, nor designate the assets which should be part of it, against the will of the heir.

ARTICLE 2028
(Socinian caution)
If, however, the testator bequeaths a usufruct or constitutes a life pension that proves prejudicial to the compulsory legacy, the compulsory heirs may carry out the testamentary wishes or simply hand over to the legatee the unencumbered share.

ARTICLE 2029
(Testamentary wishes in lieu of compulsory legacy)
1. The author of the succession may leave a testamentary wish instead of a compulsory legacy.
2. Accepting the testamentary wishes implies losing the right to a compulsory legacy, just as accepting a compulsory legacy implies losing the right to the testamentary wishes.
3. If the heir, having been notified according to paragraph 1 of article 1913, makes no declaration, the testamentary wishes are deemed to have been accepted.
4. The testamentary wishes left in place of the compulsory legacy are ascribed to the encumbered share of the author of the succession; but if they exceed the value of the compulsory legacy of the heir, the surplus is ascribed to the unencumbered share.

ARTICLE 2030
(Disinheritance)
1. The author of the succession may in his or her will, by expressly declaring the cause, disinherit the compulsory heir, depriving him or her of the compulsory legacy, when one of the following situations occurs:
a) If the person entitled to inherit has been convicted for a criminal offence with malice aforethought committed against the person, property or honour of the author of the succession, or of his or her spouse, or of one of the descendants, ascendants, adopters or adoptees, provided that the criminal offence corresponds to a term of more than six months in jail;
b) If the person entitled to inherit has been convicted for a vicious slander or perjury against the same person;
c) If the person entitled to inherit has, without a justa causa, refused to give alimony to the author of the succession or his or her spouse.
2. For all legal purposes, the disinherited person is compared to the person unworthy of inheriting.

ARTICLE 2031
(Repudiating the disinheritance)
The action of repudiating the disinheritance, based on the non-existence of the cause that has been invoked, expires at the end of two years from the opening of the will.

CHAPTER II
Reduction of gifts

ARTICLE 2032
(Damaging gifts and legacies)
Gifts and legacies are said to be damaging, inter vivos or after death, if they offend the compulsory legacy of the rightful heirs.

ARTICLE 2033
(Reduction)
The damaging gifts and legacies may be reduced, upon request of the compulsory heirs or their successors, inasmuch as it is necessary for the compulsory legacy to be fulfilled.

ARTICLE 2034

(Ban on renunciation)

The renunciation to the right to reduce gifts and legacies is not permitted during the lifetime of the author of succession.

ARTICLE 2035

(Order of reduction)

The reduction covers first of all the testamentary dispositions of the inheritance, in second place the testamentary wishes, and lastly the gifts and legacies that may have been carried out during the lifetime of the author of the succession.

ARTICLE 2036

(Reduction of the testamentary dispositions)

1. If the reduction of testamentary dispositions is enough, it shall be carried out proportionately, both in the case of inheritance and of legacy.
2. In the case, however, of the testator having declared that certain dispositions should produce effect in preference to others, the former shall only be reduced if the whole value of the remaining dispositions is not enough to fulfil the compulsory legacy.
3. The same preference shall apply to remuneratory legacies.

ARTICLE 2037

(Reduction of gifts made during lifetime)

1. If it is necessary to resort to gifts and legacies made during lifetime, one starts with the last one, in its entirety or partially; if that is not enough, one moves to the following one; and so on from there.
2. If there are various gifts made at the same moment or on the same date, the reduction shall be carried out in proportional parts, unless one of them is remuneratory, because in that case paragraph 3 of the preceding article applies.

ARTICLE 2038

(Terms in which reduction takes place)

1. When bequeathed or donated assets are divisible, reduction is carried out by separating from them the part that will fulfil the compulsory legacy.
2. If the assets are indivisible, if the value of the reduction exceeds half of the value of the assets, these belong entirely to the compulsory heir, and the legatee or donee shall have the remainder in money; in the opposite case, the assets belong entirely to the legatee or donee, who shall have to pay the amount of the reduction, in cash, to the compulsory heir.
3. The refund of what was spent, gratuitously, in favour of the compulsory heirs, as a result of the reduction, is also made in money.

ARTICLE 2039

(Perishing or disposal of donated property)

If the donated property has perished for any reason or has have been disposed of or encumbered, the donee or his or her successors are responsible for fulfilling the compulsory legacy in cash, up to the value of those properties.

ARTICLE 2040
(Insolvency of the liable successor)
In the cases established in the previous article and in paragraph 3 of article 2038, the insolvency of those who, according to the established order, should bear the encumbrance of reduction does not imply the liability of the others.

ARTICLE 2041
(Fruits and improvements)
As far as profits and improvements are concerned, the donee is considered to have acted in good faith up to the date of when the request for reduction was made.

ARTICLE 2042
(Deadline for reduction)
The act of reduction of damaging gifts and legacies expires after two years, counting from the acceptance of the inheritance by the compulsory heir.

TITLE IV
ON TESTAMENTARY SUCCESSION

CHAPTER I
General provisions

ARTICLE 2043
(Idea of testament)
1. Will is a unilateral act which may be revoked through which a person disposes of, after death, all of their assets or part thereof.
2. Non-patrimonial dispositions that the law allows to be inserted in the will are only valid if they are part of a testamentary act, even if that will does not contain any patrimonial dispositions.

ARTICLE 2044
(Free expression of testator)
A will is null and void if the testator has not expressed clearly and completely his or her wishes, but only used monosyllabic utterances and gestures in answer to the questions that were asked.

ARTICLE 2045
(Joint will)
Two or more people may not make a will in the same act, either in benefit of one another, or for the benefit of a third person.

ARTICLE 2046

(Personal character of will)

1. Making a will is a personal act, not susceptible to being made by means of a representative or to being dependent upon another person, both in terms of the institution of heirs or in the naming of legatees, in terms of the object of the inheritance or the nomination of a legacy, and in terms of what is deemed fulfilment or non-fulfilment of its dispositions.
2. The testator may, however, commit a third person to:
a) Share the inheritance or compulsory legacy when he or she institutes or appoints a group of persons;
b) The appointment of a legatee from among a group of people that he or she has chosen.
3. In the cases established in the paragraph above, any interested party may resort to the court to fix a deadline for the distribution of the inheritance or legacy or the appointment of a legatee, and secondly, so that the distribution of the legacy is carried out equally among the people chosen by the testator.

ARTICLE 2047

(Choice of legacy by the encumbered person, legatee or third person)

1. The testator may leave the choice of the thing that is bequeathed to the rightful appreciation of the encumbered person, of the legatee or of a third person, as long as he or she stipulates the purpose of the legacy and its type or kind.
2. The provisions of paragraph 3 of the above article are applicable in this case, with the necessary adaptations.

ARTICLE 2048

(Per relationem testament)

Any disposition which depends on instructions or recommendations made in secret to a third person, or refers to unauthentic documents, or documents that are not written and signed by the testator with a date prior to or concurrent with this one, is considered null and void.

ARTICLE 2049

(Dispositions to indeterminate persons)

A disposition to an indeterminate person or someone whose identity, for some reason, will not be determinable, is equally null and void.

ARTICLE 2050

(End contrary to law or public order, or offensive to good customs)

A disposition is considered null and void when from the interpretation of the will it is concluded that it was devised with an end that is contrary to law, public order, or is offensive to good customs.

ARTICLE 2051

(Interpretation of wills)

1. In interpreting the testamentary dispositions what is most in tune with the wishes of the testator shall always be observed, in accordance with the context of the will.
2. Complementary proof is admitted, but there shall be no effect on the wishes of the testator if it is not in the context of a minimum of correspondence, even if imperfectly expressed.

CHAPTER II
Testamentary capacity

ARTICLE 2052
(General principle)
Any individual who is not legally incapable may make a will.

ARTICLE 2053
(Incapacity)
Those incapable of making a will are:
a) Unemancipated minors;
b) Persons interdicted due to a mental disorder.

ARTICLE 2054
(Sanction)
Any will drawn up by incapacitated persons is null and void.

ARTICLE 2055
(Moment to determine capacity)
The capacity of the testator is determined by the date of the will.

CHAPTER III
Cases of relative unavailability

ARTICLE 2056
(Guardian , trustee, legal manager of property and proguardian)
1. The disposition carried out by someone interdicted or deemed incapacitated is considered null and void if it is made in favour of his or her guardian , trustee, or legal manager of the property, even if the respective accounts are approved.
2. It is equally deemed null and void if the disposition is made in favour of the proguardian , if he or she, at the time that the will is drawn up, replaces any of the people designated in the above paragraph.
3. It is, however, considered a valid disposition in favour of those same people, if they are descendants, ascendants, collaterals up to the third degree or the spouse of the testator.

ARTICLE 2057
(Doctors, nurses and priests)
The disposition in favour of a doctor or nurse who treats the testator, or of a priest who provides spiritual assistance, is considered null and void if the will was drawn up during a period of sickness which caused the will-maker’s death.

ARTICLE 2058
(Exceptions)
The cases for nullity set out in the previous article do not cover:
a) The remuneratory legacies for services received by the patient;
b) The dispositions in favour of the people designated in paragraph 3 of article 2056.

ARTICLE 2059
(Accomplice to the adulterous testator)
1. The disposition in favour of the person with whom the married testator committed adultery is null and void.
2. The above rule does not apply:
a) If the marriage has already been dissolved, or the spouses are judicially separated from persons and assets or separated de facto for more than six years prior to the opening of the succession;
b) If the disposition is merely there to ensure alimony for the beneficiary.

ARTICLE 2060
(Protagonists in the will)
Any disposition in favour of the notary or entity carrying out the notary's functions who has drawn up the public testament or approved the sealed testament, or in favour of the person who wrote it, or of the witnesses, accreditors or interpreters who take part in the will or in its approval, is null and void.

ARTICLE 2061
(Intermediaries)
1. Any of the dispositions referred to in previous articles are considered null and void if they were drawn up by proxy.
2. Those designated in paragraph 2 of article 514 are considered intermediaries.

CHAPTER IV
Unwillingness and will-related faults

ARTICLE 2062
(Accidental incapacity)
Any will is considered annullable if made by someone who was unable to understand the sense of his or her declaration or did not have free exercise of their will for any reason, even if only temporarily.

ARTICLE 2063
(Simulation)
A disposition is considered annullable if it is made apparently in favour of someone designated in the will, yet through an agreement with that person, is aimed at benefiting someone else.

ARTICLE 2064
(Error, fraud and coercion)
Any testamentary disposition is also annullable if it is caused by error, fraud or coercion.

ARTICLE 2065
(Error about motives)
Error, de facto or de jure, that falls upon the motive of the testamentary disposition may only be a cause for annulment when it is clear from the will that the testator would not have made the disposition if he or she was aware of the falsehood of the motive.

ARTICLE 2066
(Error in indicating person or property)
If the testator has wrongly indicated an heir or legatee, or property which is the object of a disposition, but from the interpretation of the will it is possible to conclude which person or which property he or she meant to refer, the disposition is valid according to the latter interpretation both in terms of person and property.

CHAPTER V
Type of will

SECTION I
Common types

ARTICLE 2067
(Indication)
The common types of will are public wills and sealed wills.

ARTICLE 2068
(Public will)
A will written by a notary in his or her register book is considered public.

ARTICLE 2069
(Sealed will)
1. The testament is said to be sealed when it is written and signed by the testator or written by another person at the request of the testator and signed by the latter.
2. The testator may only be excused from signing a sealed will if he or she is unable or does not know how to do so, and in the document of approval the reason for not doing so shall be stipulated.
3. The person who signs the testament shall initial the pages which do not have his or her signature.
4. The sealed will shall be approved by the notary, under the terms set down by notary law.
5. Violation of the provisions set forth in the previous paragraphs shall result in the nullification of the will.

ARTICLE 2070
(Date of sealed will)
The date of approval of the sealed will is accepted as the date of the will for all legal purposes.

ARTICLE 2071
(Inability to make sealed will)
Those who cannot or do not know how to read are unable to make a sealed will.

ARTICLE 2072
(Conservation and presentation of sealed will)
1. The testator may keep the will in his or her or he possession, commit it to the custody of a third person or deposit it in any notary's Office.
2. The person who is custodian of the will is obliged to present it to the notary in whose area the document is being kept, within three days of knowledge of the death of the testator; if he or she fails to do so, he or she may be held accountable for losses incurred by this, without prejudice to the special sanction of subparagraph d) of article 1898.

SECTION II
Special types

ARTICLE 2073
(Military and similar wills)
The military, as well as civilians in service of the Armed Forces, may make a will in the manner set down in the following articles, when they are in action or based outside the country, or within the country but in places where communications have been interrupted and there is no notary, and also if they are being held prisoner of an enemy.

ARTICLE 2074
(Public military will)
1. A military person, or civilian that is equivalent, shall declare his or her wishes to the commander of the respective independent unit or isolated force in the presence of two witnesses.
2. If the commander wishes to make a will, the person who should replace him or her shall take his or her place.
3. The will, once written, dated and read out loud by the commander, shall be signed by the testator, the witnesses, and the commander present; if the testator and the witnesses cannot sign, the reason for this shall be declared.

ARTICLE 2075
(Sealed military will)
1. If the military person, or civilian that is equivalent, can and is able to write, he or she may write a will in his or her own handwriting.
2. Once the will has been written and signed by the testator, this person shall present it to the commander in the presence of two witnesses, declaring that he or she has expressed his or her last wish; the commander, without reading the will, shall write in said testament the dated statement that the document was brought before him or her, and that the declaration was signed by the witnesses and the commander.
3. If the testator so requests it, the commander, still in the presence of witnesses, shall sow and seal the testament, inscribing on the outer sheet a note with the name of the person to whom the will inside belongs.
4. This kind of testament is subject to paragraph 2 of the previous article.

ARTICLE 2076

(Complementary formalities)

1. The will that is made in conformity with the previous articles shall be deposited by the military authorities in the notary's Office of the residence or last known residence of the testator.
2. If the testator has passed away before the reason that stopped him or her from making a will of a common type has ceased, an announcement of the death in the official gazette shall be made, with the designation of notary's Office where the will has been deposited.

ARTICLE 2077

(Will made at sea)

Anyone may make a will aboard a warship or a merchant ship, on a sea voyage, in the manner set out in the following articles.

ARTICLE 2078

(Formalities of a maritime will)

The will that is made aboard a ship shall obey the rules of articles 2074 or 2075, and it is incumbent upon the commander of the vessel to carry out the duties of the commander of an independent unit or isolated force.

ARTICLE 2079

(Duplicate, register and safekeeping of will)

The maritime will is made in duplicate, is registered in the ship's log and kept with the documents aboard.

ARTICLE 2080

(Delivery of the will)

1. If the vessel puts into any foreign port where there is a Timorese consulate, the commander shall deliver to that authority one of the copies of the will and a copy of the registration thereof made in the ship's log.
2. If the vessel puts into Timorese territory, the commander shall hand over the other copy of the will to the local maritime authority, or shall hand both duplicates if none has been deposited in the manner set out in the previous paragraph, as well as a copy of the registration.
3. In any of the cases set out in this article, the commander shall charge a receipt for delivery and add that to the ship's log, as a margin note to the register of the will.

ARTICLE 2081

(Formal receipt of delivery and deposit of will)

1. The consulate or military authority shall draw up a formal receipt of delivery of the will, as soon as it has been delivered, and shall see to it that it is deposited at the notary's Office of the residence or last know place of residence of the testator.
2. This case is subject to paragraph 2 of article 2076.

ARTICLE 2082

(Will made aboard aircraft)

The provisions set forth in articles 2077 through 2081 is applicable, with the necessary adaptations, to a will made aboard an aircraft.

ARTICLE 2083

(Will made in case of public calamity)

1. If anyone is unable to resort to the common types of will, because they are in a place where there is an epidemic or another kind of public calamity, they may make their will before a notary, a judge or a priest, in accordance with the formalities set down in articles 2074 or 2075.
2. The will shall be deposited, as soon as possible, in the notary's Office where it was drawn up.

ARTICLE 2084

(Competency of witnesses, accreditors or interpreters; incapacities)

1. Anyone who is impeded by authentic extra-official documents may not serve as witness, accreditor or interpreter for any of the wills regulated in the present section.
2. This extends to the same wills, with necessary adaptations, as concerns what is set out in article 2060.

ARTICLE 2085

(Deadline for effectiveness)

1. The will which is celebrated by any of the special manners established in this section is rendered without effect two months after the cessation of the cause that impeded the testator from willing according to the common types of will.
2. If during this time the testator finds himself or herself once more in impeding circumstances, the deadline shall be postponed and counted from the start when these new circumstances cease.
3. The entity before whom the will is made shall clarify the testator about the provision set out in paragraph 1 above, mentioning this fact in the will itself; not having done so shall not imply the nullification of the whole act.

ARTICLE 2086

(Will made by Timorese in foreign country)

The will made by a Timorese citizen in a foreign country, observing relevant foreign laws, shall only produce effects in Timor-Leste if solemnity is observed in its making and approval.

CHAPTER VI
Contents of the will

SECTION I
General provisions

ARTICLE 2087
(Dispositions for the salvation of the testator's soul)

1. The disposition for the salvation of the soul is valid when the testator has designated property for that purpose or when it is possible to determine the exact amount necessary for this effect.
2. The disposition for the salvation of the testator's soul is an encumbrance which falls to the heir or legatee.

ARTICLE 2088
(Disposition in favour of group of persons)

The disposition in favour of a group of persons, without further stipulation, is considered to be in favour of those who live in the place where the testator had his or her domicile at the time of death.

ARTICLE 2089
(Dispositions in favour of relatives or rightful heirs)

1. The disposition in favour of heirs of the testator or third parties, with no designation of whom they might be, is deemed to be in favour of those who would be called by law to the succession, at the time of death of the testator, with the inheritance or legacy being distributed according to the rules of legitimate succession.
2. A similar manner is adopted if those who are designated as successors are the rightful heirs of the testator or a third party, or certain categories of relatives.

ARTICLE 2090
(Individual and collective designation of successors)

If the testator designates certain successors individually and others collectively, these shall be deemed to have been designated individually.

ARTICLE 2091
(Designation of a certain person and respective children)

If the testator calls to the succession a certain person and his or her children, it is deemed that all have been designated simultaneously, in terms of the previous article, and not successively.

SECTION II
Conditional, time-limited and modal dispositions

ARTICLE 2092
(Conditional dispositions)

The testator may subject the institution of an heir or the appointment of a legatee to a suspensive or resolutive condition, under the limitations of the following articles.

ARTICLE 2093

(Impossible conditions, contrary to law, public order or offensive to good customs)

1. The physical or legally impossible condition is considered as if it had not been written and does not prejudice the heir or the legatee, save declaration of the testator to the contrary.
2. A condition contrary to law or public order, or offensive to good customs, is also considered as if it had not been written, even if the testator has stated the contrary, save for the provisions in article 2050.

ARTICLE 2094

(Condition of captation)

Any disposition that is made on the condition that the heir or legatee put a similar disposition in favour of the testator or third person in his or her will, is null and void.

ARTICLE 2095

(Conditions contrary to law)

It is considered contrary to law to condition someone to live or not live in a certain property or locality, to contact or not contact a particular person, not to make a will, not to transmit bequeathed property to certain people, or not to share or divide that property, to follow or not follow an ecclesiastical state, a certain profession and other similar clauses.

ARTICLE 2096

(Condition to marry or not to marry)

1. It is also contrary to law to set the condition that the heir or legatee must marry or not marry.
2. It is, however, valid to allow the usufruct, use, accommodation, pension or other continual or periodic allowance to be in effect as long as the state of being single or widow(er) of the legatee persists.

ARTICLE 2097

(Condition to give or not to do)

If the inheritance or legacy has been left on the condition that the heir or legatee does not give or practice a certain act for an undetermined period of time, the disposition is considered to have been made under a resolutive condition, unless the contrary is the result of the will.

ARTICLE 2098

(Obligation of preference)

The testator may impose on the legatee the obligation to give preference to a certain person in the sale of a bequeathed property or in carrying out another contract, under the terms established for pacts of preference.

ARTICLE 2099

(Giving a guarantee)

1. In the case of a testamentary disposition subject to a resolutive condition, the court may impose on the heir or legatee the obligation to give a guarantee in the interest of those whom the inheritance or legacy favours in case the condition occurs.
2. Likewise, in the case of a legacy that is dependent on a suspensive condition or starting date, the court may impose on the person who should carry out the legacy the duty to give a guarantee, in the interest of the legatee.
3. The testator may waive the need to give a guarantee in any of the cases mentioned in the previous paragraphs.

ARTICLE 2100

(Management of inheritance or legacy)

1. If the heir is instituted in a suspensive condition, the inheritance is placed under management, until the condition is met or there is a certainty that it cannot be met.
2. The inheritance or legacy is also placed under management while the condition or term is pending, if the person who is required to give a guarantee, according to the previous article, does not do so.

ARTICLE 2101

(Person upon whom management is incumbent)

1. In the case of an inheritance in a suspensive condition, management belongs to the conditional heir him or herself, and if he or she does not accept it, to his or her substitute; if there is no substitute or if he or she also does not accept it, management belongs to the unconditional co-heir or co-heirs, when between them and the conditional co-heir there is the right to accrue, and, in the absence of this right, to the presumptive compulsory heir.
2. If a guarantee is not given as established in article 2099, the management of the inheritance or legacy is passed to the person to whom the guarantee should be given.
3. Nevertheless, in any of the cases mentioned in this article, the court may decide otherwise, if there is just reason to do so.

ARTICLE 2102

(Regime of management)

Without prejudice to the provisions of the previous articles, the managers of the inheritance or legacy are subject to the rules that are applicable to the provisional trustee of property of the absentee, with the necessary adaptations.

ARTICLE 2103

(Management of inheritance or legacy in favour of the unborn child)

1. The provisions of articles 2100 to 2102 are applicable to the inheritance left to an unconceived unborn child, son of a living person; but this person or, in case of incapacity, his or her legal representative shall represent the unborn child in all matters not pertaining to the management of the inheritance or legacy.
2. If the heir or legatee has been conceived, the management of his or her inheritance or legacy rests with whomever would manage that property had he or she been born.

ARTICLE 2104
(Management by of head of household)
The provisions in the previous articles do not prejudice the managerial powers of the head of household.

ARTICLE 2105
(Retroactivity of condition)
1. The effects of the fulfilment of the condition are retroactive to the date of the death of the testator, and testamentary statements to the contrary are considered as if they had not been written.
2. Retroactivity is applicable to the provisions in paragraphs 2 and 3 of article 268.

ARTICLE 2106
(Initial or final term)
1. The testator may subject the appointment of a legatee to an initial term; but said person may only suspend the execution of the disposition, not stopping the appointee from acquiring a right to the legacy.
2. The declaration of an initial term in instituting an heir, and so too the declaration of a final term in instituting an heir as well as in appointing a legatee, are considered as if they had not been written, unless, if regarding such appointment, the disposition concerns a temporary right.

ARTICLE 2107
(Encumbrances)
Both instituting an heir and appointing a legatee are subject to encumbrances.

ARTICLE 2108
(Impossible encumbrances, contrary to law, public order, or offensive to good customs)

The provisions of article 2093 are applicable to impossible encumbrances, those contrary to law, public order or offensive to good customs.

ARTICLE 2109
(Giving a guarantee)
The court may impose the obligation to give a guarantee on the heir or legatee onerated by encumbrances, when it considers it justified and the testator has not established anything to the contrary.

ARTICLE 2110
(Fulfilment of encumbrances)
In the case of the heir or legatee not satisfying the encumbrances, any interested party has the right to demand the fulfilment thereof.

ARTICLE 2111
(Resolution of testamentary disposition)
1. Any interested party may also ask for the resolution of a testamentary disposition due to the non-fulfilment of an encumbrance, if the testator has so bequeathed it, or if it is licit to conclude from the will that the disposition would not be maintained if the encumbrance were not fulfilled.
2. If the disposition is resolved, the encumbrance shall be fulfilled, in the same conditions, by the beneficiary of the resolution, unless some other thing results from the will or the nature of the disposition.
3. The right to resolution expires after five years of waiting period in the fulfilment of the encumbrance and, in any case, 20 years after the opening of the succession.

SECTION III
Legacies

ARTICLE 2112
(Acceptance and rejection of the legacy)
The provisions regarding the acceptance and rejection of the inheritance extend to the legacies, inasmuch as they are applicable, given the necessary adaptations.

ARTICLE 2113
(Indivisibility of vocation)
1. The legatee may not accept a part of a legacy and reject another part; but he or she may accept a legacy and reject another legacy, as long as the latter is not onerated by encumbrances imposed by the testator.
2. The heir who is simultaneously legatee shall have the ability to accept the inheritance and reject the legacy or to accept the legacy and reject the inheritance, but here, too, only if what is rejected is free of encumbrances.

ARTICLE 2114
(Legacy of a thing belonging to an encumbered person or to a third party)
1. The legacy of a thing belonging to the successor onerated with an encumbrance or to a third party is null and void, unless it is understood from the will that the testator knew that the bequeathed thing did not belong to him or her.
2. In the latter case, the successor who has accepted the disposition that is made for his or her benefit is obliged to acquire the thing and to pass it on to the legatee or to make its acquisition by him or her possible by another means, or, if that is not possible, to pay its value to him or; and he or she is also obliged to pass that thing on to him or her if it belongs to that person.
3. If the bequeathed thing, which did not belong to the testator at the time of the making of the will, has become his or her or hers for any reason, the disposition relative to that thing is valid, as if at the time of the will it belonged to the testator.
4. If the legacy falls on something belonging to one of the co-heirs, it is the others who shall satisfy him or her, in money or in property from the inheritance, their share of the value of that thing, proportionally to their share of the inheritance, unless there is a statement by the testator to the contrary.

ARTICLE 2115

(Legacy of a thing belonging only partially to testator)

1. If the testator wills something which does not wholly belong to him or her, the legacy is only valid for the share that belongs to him or her, unless it is understood from the will that the testator knew that he or she did not own the whole, in which case the provisions of the previous article shall apply.
2. The rules of the previous paragraph do not prejudice the provisions of article 1579 as regards the legacy of a certain and specific asset from the common property of both spouses.

ARTICLE 2116

(Legacy of an indeterminate thing)

It is deemed valid to legate something undetermined of a certain type, even if nothing can be found of this type of thing in the property of the testator at the time of the making of the will and nothing of this type is found at the time of his or her death, unless the testator makes the statement established in the next article.

ARTICLE 2117

(Legacy of thing non-existent in belongings of testator)

1. If the testator bequeaths a specific thing, or an indeterminate thing of a certain type, with the declaration that such a thing or type is part of his or her patrimony, but if that is not the case at the time of his or her death, the legacy is null and void.
2. If the thing or type mentioned in the disposition can be found in the testator's property, but not in the quantity that is bequeathed, the legatee shall have what there is.

ARTICLE 2118

(Bequeathed thing existing in certain place)

The bequeathed thing which exists in a certain place may only take effect up to the amount that can be found there at the time of the opening of the succession, except if that thing, usually kept at that place, has been removed, wholly or in part, for a certain period.

ARTICLE 2119

(Legacy of thing that belongs to legatee)

1. The legacy of a thing which at the time of the making of the will belongs to the legatee is null and void, if it also belongs to that person at the time of the opening of the succession.
2. The legacy is however deemed valid if at the time of the opening of the succession the thing belongs to the testator; and it is also valid if at that time it belonged to the successor encumbered with the legacy or a third person and it is understood from the will that the inheritance was made with this fact in mind.
3. In this case, the provisions of paragraphs 2 and 4 of article 2114 are applicable.

ARTICLE 2120

(Legacy of thing acquired by legatee)

1. If after the making of the will the legatee acquires from the testator, by free gift or for good and valuable consideration, the thing that has been bequeathed, this legacy shall not take effect.
2. The legacy shall also not take effect if, after the making of the will, the legatee acquires something, by free gift, from the encumbered successor or third person; if he or she acquires it for good and valuable consideration, he or she may ask to be reimbursed the amount he or she spent, if it is understood from the will that the testator knew that the bequeathed thing was not his or her or hers.

ARTICLE 2121

(Legacy of usufruct)

Leaving a usufruct, in the absence of a statement to the contrary, is considered to be for life; if the beneficiary is a legal person, it shall last thirty years.

ARTICLE 2122

(Legacy for payment of debt)

1. If the testator wills a certain thing or sum of money that he or she owes the legatee, the legacy is valid, even if the owed sum or thing were not really owed, unless the legatee is incapable of having it through succession.
2. The legacy is, however, without effect if the testator, being the debtor at the time of the making of the will, settles the debt afterwards.

ARTICLE 2123

(Legacy in favour of a creditor)

The legacy in favour of a creditor, but without reference made by the testator as to the debt, is not considered to be destined to pay off that debt.

ARTICLE 2124

(Legacy of credit)

1. The legacy of a credit only takes effect in relation to the part which persists at the time of death of the testator.
2. The heir shall satisfy the disposition by handing to the legatee the documents regarding the credit.

ARTICLE 2125

(Legacy of totality of credits)

If the testator wills the totality of his or her credits, it should be understood, in case of doubt, that what is bequeathed only encompasses money credits, excluding bank deposits and bearer bonds or registered bonds.

ARTICLE 2126

(Legacy of contents of a house)

If the contents of a house or the money therein are bequeathed, it must not be understood from the testator’s silence on the matter that credits have also been bequeathed, even if such documents are found in the house.

ARTICLE 2127
(Pre-legacy)
The legacy in favour of one of the co-heirs, and in charge of the whole inheritance, is fully valid.

ARTICLE 2128
(Obligation to fulfil the terms of the legacy)
1. In the absence of a provision to the contrary, fulfilment of the legacy is incumbent upon the heirs.
2. The testator may, however, impose the fulfilment on one or some of the heirs, or one or some of the legatees.
3. The heirs or legatees on whom this encumbrance falls are subject to it in the same proportion as the share they are entitled to, if the testator does not establish a different proportion.

ARTICLE 2129
(Fulfilment of legacy of indeterminate thing)
1. When the legacy is of an undetermined thing belonging to a certain type, its choosing is up to the person who must fulfil it, unless the testator has attributed that choice to the legatee himself or herself or a third person.
2. If the testator is silent on this matter, the choice shall fall on the things that exist in the inheritance, unless if there is none of this type of thing and the legacy is valid under the terms set out in article 2116; the legatee may choose the best thing, unless the choice regards things that do not exist in the inheritance.
3. The rules in articles 335 and 476 are applicable, with the necessary adaptations, to the legacy of an undetermined thing, when they do not oppose the provisions of the previous paragraphs.

ARTICLE 2130
(Fulfilment of alternative legacies)
Alternative legacies are subject to the same regime, properly adapted, governing alternative obligations.

ARTICLE 2131
(Transmission of right to choose)
Both in terms of the legacy of a generic thing as in terms of an alternative legacy, if the choice belongs to the encumbered successor or the legatee, and one or the other passes away without having made it, those rights are transmitted to his or her heirs.

ARTICLE 2132
(Extent of legacy)
1. In the absence of a statement from the testator about the extent of the legacy, it is understood to cover improvements and integral parts.
2. The legacy of land or town property, or a group of land or town properties that constitute an economic unit, covers, if the testator is silent on the matter, the constructions made within it, both before and after the making of the will, as well as the acquisitions made after that have integrated that unit, without prejudice to the provision of paragraph 2 of article 2179.

ARTICLE 2133

(Delivery of legacy)

In the absence of a statement from the testator about the delivery of the legacy, this shall be carried out at the place where the bequeathed thing was at the time of death of the testator and within a year from that date unless, for reasons that cannot be ascribed to the encumbered person, meeting that deadline is impossible; if, however, the legacy is in money or of the generic type that does not exist in the inheritance, delivery shall be made at the place where the opening of the succession takes place, within the same time limit.

ARTICLE 2134

(Fruits)

If there is no statement from the testator about the fruits of the bequeathed thing, the legatee has the right to those fruits after the death of the testator, with the exception of those received beforehand by the author of the succession; if, however, the legacy consists of money or something that is not part of the inheritance, the fruits are only owed from the moment there is a delay on the part of the person that must pay them.

ARTICLE 2135

(Legacy of an encumbered thing)

1. If the bequeathed thing is onerated with an easement or another inherent encumbrance, the same encumbrance is passed on to the legatee.
2. If there is any tenure or other payment in arrears, they shall be paid through the inheritance; debts guaranteed by mortgages or any other real guarantee on the thing that is bequeathed shall also be paid through that same inheritance.

ARTICLE 2136

(Legacy of periodic payments)

1. If the testator wills any periodic payment, the first period runs from the time of his or her death, and the legatee is entitled to the whole of the payment for each period, even if he or she dies during that time.
2. The provision set forth in the previous paragraph is applicable to the legacy of alimony, even if this is only established after the death of the testator.
3. The legacy may only be demanded at the end of its respective period, unless it refers to alimony, for in this case, it is owed at the beginning of each period.

ARTICLE 2137

(Legacy left to minor)

The legacy left to a minor destined for him or her when he or she reaches the age of majority may not be demanded by him or her before that time, even if he or she is emancipated.

ARTICLE 2138

(Expenses in fulfilling legacy)

Expenses incurred in fulfilling a legacy are of the responsibility of the person who has to fulfil it.

ARTICLE 2139
(Charges imposed on legatee)
1. The legatee is answerable for the fulfilment of the legacies and other charges that may be ascribed to him or her, but only within the value of the bequeathed thing.
2. If the legatee with such a charge does not receive the whole legacy, the charge is reduced proportionately and if the bequeathed thing is claimed by a third person, the legatee may be reimbursed for what he or she has paid out.

ARTICLE 2140
(Payment of charges of inheritance by legatees)
If the inheritance is distributed in legacies, the charges are paid for by all the legatees in proportion to the share of their legacy, unless the testator has stipulated otherwise.

ARTICLE 2141
(Insufficient inheritance to pay for legacies)
If the property of the inheritance does not cover the legacies, these shall be paid in proportional parts; exception is made in relation to remuneratory legacies, which are considered a debt of the inheritance.

ARTICLE 2142
(Claiming the bequeathed thing)
The legatee may claim from a third person the bequeathed thing, as long as it is certain and specific.

ARTICLE 2143
(Pious legacies)
Pious legacies are regulated by special legislation.

SECTION IV
Substitutions

SUBSECTION I
Direct substitution

ARTICLE 2144
(Concept)
1. Direct substitution occurs when the testator may replace by a certain other person the chosen heir when this person cannot or will not accept the inheritance.
2. If the testator only makes provisions for one such case, it is understood that he or she wanted to cover the other case, unless there is a statement to the contrary.

ARTICLE 2145
(Plural substitution)
Many people may be replaced by several, and several may be replaced by one.

ARTICLE 2146
(Reciprocal substitution)
1. The testator may determine that co-heirs replace one another.
2. In such cases if the co-heirs have been chosen for unequal shares, the same proportion shall be respected in case of substitution, if the testator remains silent.
3. But, if at the time of the substitution the remainder of the chosen heirs are not called, or someone else comes in their stead, and nothing is declared about the respective proportion, the vacant share is shared out equally among the substitutes.

ARTICLE 2147
(Rights and obligations of substitutes)
Substitutes succeed in rights and obligations to the person they are substituting, unless the testator has stipulated otherwise.

ARTICLE 2148
(Direct substitution of legatees)
1. The provisions contained in the present subsection are applicable to compulsory legacies.
2. As regards legatees appointed for the same object, be it a joint appointment or not, reciprocal substitution is deemed to have been established, if the testator remains silent, in the same proportion as that of the appointment.

SUBSECTION II
Trustee substitutions

ARTICLE 2149
(Concept)
The term trustee substitution, or trust, is given to the disposition according to which the testator imposes on the chosen heir an encumbrance to conserve the inheritance, so that at the time of his or her death it reverts to the hands of another; the heir charged with this is called fiduciary, and trustee is the beneficiary of this substitution.

ARTICLE 2150
(Plural substitution)
There may be one or several fiduciaries, as there may be one or several trustees.

ARTICLE 2151
(Limit of validity)
The trustee substitutions of more than one degree are null and void, even if the reversion of the inheritance in favour of the trustee is subject to a future, uncertain event.

ARTICLE 2152
(Nullity of substitution)
The nullity of the trustee substitution does not involve the nullity of the institution or of the previously mentioned substitution; only the trustee clause is considered as if it has not been written, unless the contrary results from the will.

ARTICLE 2153

(Rights and obligations of fiduciary)

1. The fiduciary may enjoy and manage the properties subject to the trust.
2. The legal dispositions regarding usufruct extend to the fiduciary, in so far as they are not incompatible with the nature of the trust.
3. The final judicial sentence in an action regarding the property subject to the trust is not opposable to the trustee if he or she was not a party in it.

ARTICLE 2154

(Disposition or encumbrance of property)

1. In case of clear need or utility of those properties of substitution, the court may authorize, with the necessary safeguards, the disposition or encumbrance of the properties subject to the trust.
2. In similar circumstances, the court may authorize the disposition or encumbrance in a clear case of necessity or utility for the fiduciary, as long as the interests of the trustee are not affected.

ARTICLE 2155

(Rights of personal creditors of the fiduciary)

The personal creditors of the fiduciary do not have the right to be paid with the properties subject to the trust, but only from their fruits.

ARTICLE 2156

(Returning the inheritance to the trustee)

1. The inheritance is given back to the trustee at the time of death of the fiduciary.
2. If the trustee cannot or will not accept the inheritance, the substitution is rendered ineffectual, and the ownership of the inheritance property is deemed to have been definitively acquired by the fiduciary from the time of death of the testator.
3. If the fiduciary cannot or will not accept the inheritance, the substitution, given the testator's silence on the matter, is converted from trustee to direct, and the inheritance is returned in favour of the trustee, with effect from the time of death of the testator.

ARTICLE 2157

(Acts of disposal of the trustee)

The trustee may not accept or reject the inheritance nor dispose of the respective property, even for good and valuable consideration, before it is given back to him or her.

ARTICLE 2158
(Irregular trusts)

1. The following are considered trustees:
a) Dispositions through which the testator prohibits an heir from disposing of inheritance properties, be it by an act inter vivos, be it by an act of last will;
b) Dispositions through which the testator calls someone to whatever is left of the inheritance after the death of the heir;
c) Dispositions through which the testator calls someone to the properties bequeathed to a legal person, in the case of said legal person ceasing to be.
2. In the case established in a) of the previous paragraph, the legitimate heirs of the fiduciary are deemed trustees.
3. The provisions of the previous articles are applicable to the trusts established in this article; but in the cases of subparagraphs b) e c) of paragraph 1, the fiduciary may dispose of properties by an act inter vivos, irrespective of judicial authorization, if he or she obtains the consent of the trustee.

ARTICLE 2159
(Trustee substitution of legacies)

The provisions of this subsection are applicable to legacies.

SUBSECTION III
Pupillary and quasi-pupillary replacements

ARTICLE 2160
(Pupillary replacement)

1. The parent whose parental rights are not totally or partially inhibited has the ability to take the place of the sons of heirs or legatees whom he or she chooses to replace, in the case of those self-same children passing away before they are seventeen years of age: this is what is called pupillary replacement.
2. The replacement is without effect as soon as the person replaced reaches the age of seventeen , or if he or she passes away leaving descendants or ascendants.

ARTICLE 2161
(Quasi-pupillary replacement)

1. The provisions of the previous article are applicable, with no age limit, in the case of the son/daughter being unable to will as a consequence of an interdiction due to a mental disorder: this is what is termed quasi-pupillary replacement.
2. The quasi-pupillary replacement is without effect as soon as the interdiction is lifted, or if the substitute passes away leaving descendants or ascendants.

ARTICLE 2162
(Transformation of pupillary into quasi-pupillary replacement)

The pupillary replacement is deemed to all intents and purposes as quasi-pupillary, if the minor is declared interdicted due to a mental disorder.

ARTICLE 2163
(Property which may be included)
Pupillary and quasi-pupillary replacements may only include property that the replaced person has acquired, as part of the available inheritance, by instruction of the testator.

SECTION V
Right to accrue

ARTICLE 2164
(Right to accrue among heirs)
1. If two or more heirs are vested with equal parts of the whole or a share of the property, whether or not it is a joint gift, and one of them cannot or does not want to accept the inheritance, his or her share shall accrue to that of the other instituted heirs in its totality or proportional share.
2. If the shares of the heirs are unequal, the share of the person who did not or could not accept his or her or hers is divided among the others, respecting the proportions between them.

ARTICLE 2165
(Right to accrue among legatees)
1. There is the right to accrue among the legatees who have been appointed in relation to the same object, whether or not they have been jointly appointed.
2. The provisions of the previous article, with the necessary adaptations, are applicable in this case.

ARTICLE 2166
(Terminating the encumbrance of fulfilling the legacy)
When there is no right to accrue between the legatees, the object of the legacy is attributed to the heir or legatee onerated with the encumbrance of its fulfilment, unless that object is generically encompassed in another legacy.

ARTICLE 2167
(Cases where the right to accrue does not exist)
There is no place for the right to accrue, if the testator has disposed of another thing, if the bequeathed thing is of a purely personal nature or if there is right of representation.

ARTICLE 2168
(Usufructuaries' right to accrue)
The provisions set forth in articles 1365 and 2165 are applicable to usufructuaries' right to accrue.

ARTICLE 2169
(Acquisition of the accrued part)
The acquisition of the accrued of part takes place by force of law, with no need for the beneficiary's acceptance, who may not reject that part separately, save when there are special encumbrances placed on it by the testator; in this case, having become an object of rejection, the added portion reverts to the person or persons in favour of whom the encumbrances were constituted.

ARTICLE 2170
(Effects of the right to accrue)
The heirs or legatees who receive the accrued part succeed in the same rights and obligations as those that would fall on the person that could not or would not receive the inheritance, provided they are not of a purely personal nature.

CAPÍTULO VII
Nullity, annullability, revocability and expiry of wills and testamentary dispositions

SECTION I
Nullity and annullability

ARTICLE 2171
(Expiry of action)
1. The action of nullity of the will or of a testamentary disposition expires after ten years, counting from the date when the interested person became aware of the will and the cause for nullity.
2. If the will or disposition is annullable the action expires at the end of two years counting from the date when the interested person became aware of the will and the cause for annullability.
3. In these cases the rules of suspension and interruption of the prescription are applicable.

ARTICLE 2172
(Confirmation of will)
Whoever has confirmed the nullity or annullability of the will or testamentary disposition may not take advantage of that fact.

ARTICLE 2173
(Inadmissibility of the prohibition to challenge a will)
The testator may not prohibit his or her will from being challenged in cases where there is nullity or annullability.

SECTION II
REVOCATION AND FORFEITURE

ARTICLE 2174
(Capacity to revoke)
1. The testator may not renounce the capacity to revoke the whole or a part of his or her will.
2. Any clause which opposes the capacity to revoke is considered as if it has not been written.

ARTICLE 2175
(Express revocation)
Express revocation of the will may only occur if the testator declares, in another will or through a public deed, that he or she revokes all or part of the previous will.

ARTICLE 2176
(Tacit revocation)
1. The will made at a later date and which does not expressly revoke the previous one, shall revoke only those parts which are incompatible with it.
2. If there are two wills with the same date, without it being possible to determine which one was made at a later time, and they imply contradictions, the contradictory provisions shall be considered as if they had not been written.

ARTICLE 2177
(Revocation of the revoking will)
1. Express or tacit revocation shall produce an effect, even if the revoking will is itself revoked.
2. The previous shall recovers, however, its full strength, if the testator, by revoking the later will, declares of his or her free will that the provisions of the first be revived.

ARTICLE 2178
(Nullification of sealed will)
1. If the sealed will is shown to be dilacerated or torn to pieces, it shall be considered revoked, unless it is proved that this was done by a person other than the testator or that the latter did not mean to revoke it or if he or she was mentally impaired at the time.
2. If the will was not in the possession of the testator at the time of his or her death, the act is presumed to have been carried out by another person.
3. The mere obliteration or cancelling of a will, all or part thereof, even if signed, is not deemed to constitute revocation, as long as the old provision can be read.

ARTICLE 2179
(Disposition or transformation of the bequeathed thing)
1. The total or partial disposition of the bequeathed thing implies the revocation of the correlated legacy; revocation shall take effect even if the disposition is annulled on diverse grounds of unwillingness or will-related faults of the disposer, or even if this person re-acquires the ownership of the thing by other means.
2. It implies, moreover, the revocation of the transformation of the legacy from one thing to another, with a different shape and denomination, or of a different nature, when the transformation is made by the testator.
3. Proof that the testator, in disposing of or transforming the thing, did not want to revoke the legacy is, however, admissible.

ARTICLE 2180
(Cases of expiry)
The testamentary dispositions, whether they regard the institution of an heir or the appointment of a legatee, shall expire, among other cases:
a) If the instituted heir or appointed legatee passes away before the testator, except if there is a representation of the successor;
b) If the institution or appointment is dependent on a suspensive condition and the successor passes away before that condition is met;
c) If the instituted heir or appointed legatee becomes incapable of acquiring the inheritance or legacy;
d) If the person called to the succession is the spouse of the testator and at the time of death of this person they were divorced, judicially separated from persons and assets or their marriage had been declared null or annulled, by means of a final sentence or which will become final, or if at a later date a sentence of divorce, judicial separation from persons and assets, declaration of nullity or annulment of marriage, is declared;
e) If the person called to the succession rejects the inheritance or the legacy, unless there is inheritance by right of representation.

CHAPTER VIII
Testamentary

ARTICLE 2181
(Concept)
The testator may appoint one or more people who shall be in charge of observing the fulfilment of his or her will or of executing all or a part of it: this is called testamentary.

ARTICLE 2182
(Persons who may be nominated executors)
1. Only someone with full legal capacities may be appointed as an executor.
2. The designation may fall on an heir or legatee.

ARTICLE 2183
(Acceptance or refusal)
The appointee may accept or refuse the testamentary.

ARTICLE 2184
(Acceptance)
1. The acceptance of the testamentary may be express or tacit.
2. The testamentary may not be accepted on a condition, under a term, nor in part.

ARTICLE 2185
(Refusal)
The refusal of the testamentary may be done by statement before a notary.

ARTICLE 2186
(Responsibilities of executor)
The executor has the responsibilities granted to him or her by the testator, within the limits of the law.

ARTICLE 2187
(Statutory provision)
If the testator does not specify the responsibilities of the executor, he or she shall be responsible for:
a) Making the funeral arrangements of the testator and of paying the respective funeral and related expenses, in keeping with what is set down in the will or, if nothing is established, in keeping with the customs of the land;
b) Watching over the execution of the testamentary dispositions and upholding, if need be, their validity in court;
c) Carrying out the functions of head of household, in the terms of clause b) of paragraph 1 of article 1944.

ARTICLE 2188
(Fulfilment of legacies and other encumbrances)
The testator may charge the executor with the fulfilment of legacies and other inheritance encumbrances, when this person is head of household and no compulsory probate is required.

ARTICLE 2189
(Sale of property)
For the purposes of applying the provisions of the previous article, the executor may be authorized by the testator to sell any property of the inheritance, movable or immovable, or the assets designated by the will.

ARTICLE 2190
(Plurality of executors)
1. If there are several executors, they are all considered to be jointly appointed, unless some other situation was laid down by the testator.
2. If, for any reason, the testamentary expires in relation to some of the persons designated, the remainder shall continue with their respective functions.
3. If the executors are appointed successively, each one of them is called to accept or refuse his or her office in the absence of his or her predecessor.

ARTICLE 2191
(Refusal of executor)
The person appointed that accepts the testamentary may only be excused from it in the cases established in paragraph 1 of article 1949.

ARTICLE 2192

(Removal of executor and expiry of plural testamentary)

1. The executor may be judicially removed, at the request of any interested person, if the duties of his or her office are not fulfilled with prudence and zeal or if he or she proves to be incompetent in carrying them out.
2. If several executors are jointly appointed and there is no agreement between them about exercising the testamentary, they may all be removed, or some, or one of them.

ARTICLE 2193

(Rendering of accounts)

1. The executor is obligated to render accounts annually.
2. If found at fault, the executor answers before all the heirs and legatees for the damage that he or she has caused.

ARTICLE 2194

(Remuneration)

1. The office of executor is held gratuitously, unless the testator assigns him or her a payment.
2. The executor is not entitled to the assigned payment, even if it is attributed to him or her in the form of a legacy, if he or she does not accept the testamentary or is removed from it; if the testamentary expires for any other reason, he or she is only entitled to a part of the payment, proportional to the time he or she fulfilled those functions.

ARTICLE 2195

(Intransmissibility)

The testamentary is not transmissible, in life or death, nor may it be delegated, although the executor may use auxiliaries in executing his or her functions, just as an attorney may do so.