

## CIVIL CODE

### LEGISLATIVE DECREE 295

#### THE PRESIDENT OF THE REPUBLIC

#### HOW MUCH:

That Law No. 23403 created the Review Commission of the Civil Code Project prepared by the Commission established by Supreme Decree No. 95 of March 1, 1965, and, at the same time, empowered the Executive Power so that, within the present constitutional period and Through Legislative Decree, promulgate the new Civil Code, in charge of setting the date on which it must come into force;

That article 2 of Law No. 23756 provided, with the purpose expressed in its article 1, that the new Civil Code may expand, modify or repeal provisions of codes or other laws different from the Civil Code of 1936, in the terms of the Project that approve the Review Commission created by Law No. 23403;

That the aforementioned Review Commission has presented, for enactment, the Draft of the new CIVIL CODE, approved by it in accordance with Law No. 23403 and article 2 of Law No. 23756;

In accordance with articles 188 and 211, paragraph 10, of the Political Constitution of Peru;

With the approving vote of the Council of Ministers; and,

In charge of reporting to Congress;

Has issued the following Legislative Decree:

Article 1.- Promulgate the CIVIL CODE approved by the Review Commission created by Law No. 23403, according to the attached text, which consists of 2,132 articles distributed in twelve parts, as follows:

**PRELIMINARY TITLE:** Article I to X;

**BOOK I:** Rights of Persons: Articles 1 to 139;

**BOOK II:** Legal Act: Articles 140 to 232;

**BOOK III:** Family Law: Articles 233 to 659;

**BOOK IV:** Succession Law: Articles 660 to 880;

**BOOK V:** Real Rights: Articles 881 to 1131;

**BOOK VI:** The Obligations: Articles 1132 to 1350;

**BOOK VII:** Source of Obligations: Articles 1351 to 1988;

**BOOK VIII:** Prescription and Expiry: Articles 1989 to 2007;

**BOOK IX:** Public Records: Articles 2008 to 2045;

**BOOK X:** Private International Law: Articles 2046 to 2111;

**FINAL TITLE:** Articles 2112 to 2122.

**Article 2.-** The new Civil Code will enter into force on November 14, 1984.

**SO:**

Command is published and fulfilled and reported to Congress.

Given at the Government House, in Lima, on the twenty-fourth day of the month of July 1984.

**FERNANDO BELAUNDE TERRY**

Constitutional President of the Republic

**MAX ARIAS SCHREIBER PEZET**

Minister of Justice

## **Preliminary title**

**Article 1.- Abrogation of the law**

The law was repealed only by another law.

The repeal occurs by express declaration, by incompatibility between the new law and the previous one or when the matter of the latter is fully regulated by the former.

By the repeal of a law those that it has repealed do not regain validity.

### **Article II.- Abusive exercise of the right**

The law does not protect the abusive exercise or omission of a right. When demanding compensation or another claim, the interested party may request the appropriate precautionary measures to prevent or provisionally suppress the abuse.

### **Article III.- Application of the law in time**

The law applies to the consequences of existing relationships and legal situations. It has no force or retroactive effect, except for the exceptions provided in the Political Constitution of Peru.

### **Article IV.- Analogical application of the law**

The law that establishes exceptions or restricts rights does not apply by analogy.

### **Article V.- Public order, good customs and nullity of the legal act**

The legal act contrary to the laws that concern public order or good customs is null .

### **Article VI. - Interest to act**

To exercise or answer an action it is necessary to have a legitimate economic or moral interest.

The moral interest authorizes the action only when it refers directly to the agent or his family, unless expressly provided by law.

### **Article VII.- Application of the pertinent rule by the judge**

The judges are obliged to apply the relevant legal rule, even if it has not been invoked in the claim.

### **Article VIII.- Obligation to supply the defects or deficiencies of the law**

Judges cannot fail to administer justice by default or deficiency of the law. In such cases, they must apply the general principles of law and, preferably, those that inspire Peruvian law.

### **Article IX.- Supplementary application of the Civil Code**

The provisions of the Civil Code are additionally applied to legal relationships and situations regulated by other laws, provided they are not incompatible with their nature.

## **Article X.- Gaps in the law**

The Supreme Court of Justice, the Court of Constitutional Guarantees and the Attorney General are obliged to give an account to Congress of the gaps or defects in the legislation.

Judges and prosecutors have the same obligation with respect to their corresponding superiors.

# **Book I: Rights of the people**

## **Section one : Natural persons**

### **Title I: Principle of the person**

#### **Article 1.- Subject of Law**

The human person is a subject of law from birth.

Human life begins with conception. The conceived person is the subject of law for everything that favors him. The attribution of economic rights is conditional on being born alive.

#### **Article 2.- Recognition of pregnancy or childbirth**

The woman can judicially request the recognition of her pregnancy or childbirth, with summons from the people who have an interest in the birth.

The application is processed as advance evidence, with a summons from the persons who, as indicated by the applicant or at the discretion of the Judge, may have rights that are affected. The judge may order ex officio the performance of the evidence that he deems pertinent. In this process no opposition is allowed.

### **Title II: Rights of the person**

#### **Article 3.- Legal capacity**

Every person has legal capacity to enjoy and exercise their rights.

Exercise capacity can only be restricted by law. People with disabilities have the capacity to exercise under equal conditions in all aspects of life.

#### **Article 4.- Equality between men and women in the enjoyment and exercise of their rights**

Men and women have equal capacity to enjoy and exercise civil rights.

#### **Article 5.- Irrevocability of fundamental rights**

The right to life, physical integrity, liberty, honor and others inherent to the human person are inalienable and cannot be assigned. Its exercise may not be subject to voluntary limitation, except as provided in article 6.

#### **Article 6.- Acts of disposition of the body itself**

Acts of disposition of one's own body are prohibited when they cause a permanent decrease in physical integrity or when they are in any way contrary to public order or good customs. However, they are valid if their demand corresponds to a state of need, medical or surgical or if they are inspired by humanitarian motives.

The acts of disposition or use of organs and tissues of human beings are regulated by the law of the matter.

#### **Article 7.- Organ or tissue donation**

The donation of parts of the body or of organs or tissues that do not regenerate must not seriously harm the health or significantly reduce the life span of the donor. Such provision is subject to the express written consent of the donor.

#### **Article 8.- Disposition of the body post mortem**

The act by which a person altruistically disposes of all or part of his body to be used, after his death, for purposes of social interest or for the prolongation of human life is valid.

The provision favors only the person designated as beneficiary or scientific, educational, hospital or organ or tissue bank institutions that do not pursue profit-making purposes.

#### **Article 9.- Revocation of the donation of the human body**

It is revocable, before its consummation, the act by which a person disposes of part of his body while alive, in accordance with article 6. The act by which the person disposes, after his death, of all or part of your body.

The revocation does not give rise to the exercise of any action.

### **Article 10.- Disposition of the corpse by competent entity**

The head of the health establishment or the autopsy service where a corpse is found may dispose of part of it for the preservation or prolongation of human life, with the knowledge of the relatives referred to in article 13.

The same officials may dispose of the unidentified or abandoned corpse, for the purposes of article 8, in accordance with the law on the matter.

### **Article 11.- Validity of the obligation to submit to a medical examination**

The stipulations by which a person is obliged to undergo a medical examination are valid, provided that the preservation of their health or mental or physical fitness is a determining reason for the contractual relationship.

### **Article 12.- Unenforceability of dangerous contracts for the person**

Contracts whose purpose is to carry out acts that are exceptionally dangerous to the life or physical integrity of a person are not enforceable, unless they correspond to their usual activity and the appropriate precautionary and security measures are adopted in the circumstances.

### **Article 13.- Funeral acts**

In the absence of a declaration made in life, it is up to the spouse of the deceased, his descendants, ascendants or siblings, exclusively and in this order, to decide on the autopsy, cremation and burial without prejudice to the relevant public order regulations.

### **Article 14.- Right to personal and family privacy**

The intimacy of personal and family life cannot be revealed without the consent of the person or if he has died, without that of his spouse, descendants, ascendants or siblings, exclusively and in this order.

### **Article 15.- Right to an image and voice**

The image and voice of a person cannot be exploited without their express authorization or, if they have died, without the consent of their spouse, descendants, ascendants or siblings, exclusively and in this order.

Said assent is not necessary when the use of the image and voice is justified by the notoriety of the person, by the position he or she holds, by events of importance or public interest or by reasons of a

scientific, educational or cultural nature and provided that it is relate to events or ceremonies of general interest held in public. These exceptions do not apply when the use of the image or the voice threatens the honor, decorum or reputation of the person to whom they correspond.

#### **Article 16.- Confidentiality of correspondence and other communications**

Epistolary correspondence, communications of any kind or voice recordings, when they are confidential or refer to the privacy of personal and family life, cannot be intercepted or disclosed without the consent of the author and, where appropriate, of the recipient. The publication of personal or family memories, in the same circumstances, requires the authorization of the author.

Dead the author or the addressee, according to the cases, corresponds to the heirs the right to grant the respective assent. If there is no agreement between the heirs, the judge will decide.

The prohibition of posthumous publication made by the author or the addressee cannot extend beyond fifty years from his death.

#### **Article 17.- Defense of the rights of the person**

The violation of any of the rights of the person referred to in this title confers on the injured party or his heirs action to demand the cessation of the harmful acts.

The responsibility is joint.

#### **Article 18.- Protection of copyright and inventor**

The rights of the author or inventor, whatever the form or mode of expression of their work, enjoy legal protection in accordance with the law of the matter.

### **Title III: Name**

#### **Article 19.- Right to name**

Everyone has the right and the duty to bear a name. This includes the surnames.

#### **Article 20.- Surname of the child**

The son has the first surname of the father and the first of the mother.

#### **Article 21.- Birth registration**

When the father or mother separately makes the registration of the birth of the child born outside the marriage bond, he / she may reveal the name of the person with whom he / she had it. In this case, the child will bear the surname of the father or mother who registered it, as well as the presumed parent, in the latter case it does not establish a relationship of filiation.

After the registration, within thirty (30) days, the registrar, under responsibility, will inform the presumed parent of such fact, in accordance with the regulations.

When the mother does not reveal the identity of the father, she can register her child with his surname.

### **Article 22.- Name of the adoptee**

The adoptee bears the last names of the adopter or adopters.

The child of one of the spouses or concubines can be adopted by the other. In this case, the first surname is that of the adopting father and the second that of the biological mother, or the first surname of the biological father and the first surname of the adopting mother, as the case may be.

### **Article 23.- Name of the newborn of unknown parents**

The newborn whose parents are unknown must be registered with the proper name assigned by the registrar of marital status.

### **Article 24.- Right of the woman to bear the surname of the husband**

The woman has the right to have her husband's surname added to hers and to keep it until she remarries. Such right ceases in the event of divorce or nullity of marriage.

In the case of separation of bodies, the woman retains her right to bear the husband's surname. In case of controversy, the judge resolves.

### **Article 25.- Proof of name**

The proof regarding the name results from its respective inscription in the civil status records.

### **Article 26.- Defense of the right to a name**

Everyone has the right to demand that he be designated by name.

When this right is violated, the cessation of the violating act and the corresponding compensation can be requested.

#### **Article 27.- Nullity of agreements on the name**

The agreement relating to the name of a natural person is void, except for advertising purposes, of social interest and those established by law.

#### **Article 28.- Compensation for usurpation of name**

No one can use a name that does not belong to him. He who is harmed by the usurpation of his name has action to make it cease and obtain the corresponding compensation.

#### **Article 29.- Change or addition of name**

No one can change your name or make additions to it, except for justified reasons and by judicial authorization, duly published and registered.

The change or addition of the name affects, if applicable, the spouse and minor children.

#### **Article 30.- Effects of the change or addition of name**

The change or addition of the name does not alter the civil status of the person who obtains it or constitutes proof of affiliation.

#### **Article 31.- Judicial challenge for change or addition of name**

The person harmed by a name change or addition can challenge it in court.

#### **Article 32.- Legal protection of the pseudonym**

The pseudonym, when it acquires the importance of the name, enjoys the same legal protection provided to it.

### **Title IV: Address**

#### **Article 33.- Address**

The domicile is constituted by the habitual residence of the person in a place.

#### **Article 34.- Special domicile**

A special domicile can be designated for the execution of legal acts. This designation only implies submission to the corresponding territorial jurisdiction, unless otherwise agreed.

### **Article 35.- Person with several addresses**

A person who lives alternately or has habitual occupations in several places is considered domiciled in any of them.

### **Article 36.- Marital address**

The marital domicile is the one in which the spouses live together or, failing that, the last one they shared.

### **Article 37.- Domicile of the incapable person**

The incapable have the domicile of their legal representatives.

### **Article 38.- Domicile of public officials**

Public officials are domiciled in the place where they perform their functions, without prejudice, where appropriate, to the provisions of article 33.

The domicile of persons temporarily residing abroad, in the exercise of State functions or for other reasons, is the last they have had in the national territory.

### **Article 39.- Change of address**

The change of address is carried out by moving the habitual residence to another place.

### **Article 40.- Opposition to change of address**

The debtor must notify the creditor of the change of address indicated for the fulfillment of the obligatory provision, within thirty (30) days of the event, under civil and / or criminal liability that may arise.

The debtor and third parties unrelated to the obligation relationship with the creditor, are empowered to oppose the change of address.

The enforceability of the change of address will be effected by indubitable communication.

### **Article 41.- People without habitual residence**

A person who does not have a habitual residence is considered domiciled in the place where they are.

## **Title V: Capacity and inability to exercise**

### **Article 42.- Full exercise capacity**

Every person over the age of eighteen has full exercise capacity. This includes all people with disabilities, on equal terms with others and in all aspects of life, regardless of whether they use or require reasonable accommodation or support to express their will.

Exceptionally, those over fourteen and under eighteen years of age who marry, or those who exercise paternity, have full exercise capacity.

### **Article 43.- Absolute disability**

They are absolutely unable to:

1.
  1. Minors under sixteen, except for those acts determined by law.
  2. Repealed.

### **Article 44.- Relative disability**

They are relatively incapable:

1.
  1. Those over sixteen and under eighteen years of age.
  2. Repealed.
  3. Repealed.
  4. The prodigals.
  5. Those who incur mismanagement.
  6. The usual drunkards.
  7. Drug addicts.
  8. Those who suffer a penalty that has the civil interdiction attached.
  9. People who are in a coma, as long as they have not previously designated a support.

### **Article 45.- Legal representative of the incapable**

The legal representatives of the incapacitated persons exercise their civil rights, according to the rules regarding parental authority, guardianship and curatorship.

### **Article 45- A.- Legal Representatives**

Persons with restricted capacity to exercise contemplated in paragraphs 1 to 8 of article 44 will have a legal representative who will exercise the rights according to the norms referring to parental authority, guardianship or curatorship.

### **Article 45-B- Designation of supports and safeguards**

They can designate supports and safeguards:

1. Persons with disabilities who express their will can count on judicially or notarially appointed support and safeguards.
2. Persons with disabilities who cannot express their will may have judicially designated support and safeguards.
3. People in a coma who had previously designated a support will keep the designated support.
4. Persons with restricted capacity to exercise contemplated in paragraph 9 of article 44 will have the support and safeguards established by the courts, in accordance with the provisions of article 659-E of this Code.

### **Article 46.- Capacity acquired by marriage or official title**

The disability of people over sixteen (16) years of age ceases by marriage or by obtaining an official title that authorizes them to exercise a profession or trade.

The capacity acquired by marriage is not lost by the termination of this.

In the case of persons over fourteen (14) years old, the disability ceases from the birth of the son or daughter, to perform only the following acts:

1. Register the birth and recognize your sons and daughters.
2. Sue for pregnancy and delivery expenses.
3. Demand and be a part of the processes of possession, food and visitation in favor of their sons and daughters.

4. To sue and be part of the extramarital filiation processes of their sons and daughters.
5. Celebrate extrajudicial conciliations in favor of their sons and daughters.
6. Request your registration in the Unique Registry of Identification of Natural Persons, process the expedition and obtain your National Identity Document.
7. Legally challenge paternity.

## **Title VI: Absence**

### **Chapter One: Disappearance**

#### **Article 47.- Appointment of curator due to disappearance**

When a person is not in the place of his domicile and more than sixty days have elapsed without news of his whereabouts, any relative up to the fourth degree of consanguinity or affinity, excluding the closest to the most remote, can request the appointment of curator interim. Anyone who invokes a legitimate interest in the businesses or affairs of the disappeared person may also request it, summoning the known relatives and the Public Ministry. The request is processed as a non-contentious process.

The appointment of curator does not proceed if the disappeared person has a representative or representative with sufficient powers registered in the public registry.

#### **Article 48.- Norms that govern the guardianship of the disappeared**

The conservatorship to which article 47 contracts is governed by the provisions of articles 564 to 618, insofar as they are pertinent.

### **Chapter Two: Declaration of Absence**

#### **Article 49.- Judicial declaration of absence**

Two years after the last news of the disappeared was received, anyone who has a legitimate interest or the Public Ministry can request a judicial declaration of absence.

The judge of the last domicile that the disappeared person had or that of the place where most of his assets are found is competent.

#### **Article 50.- Temporary possession of the assets of the absent**

In the judicial declaration of absence, it will be ordered to give temporary possession of the assets of the absent person to those who would be his forced heirs at the time of issuing it.

If there is no person with this capacity, the curatorship established in article 47 will continue with respect to the assets of the absent person.

#### **Article 51.- Powers and limits of the holder of assets of the absent**

The temporary possession of the assets of the absent person, referred to in article 50, must be preceded by the formation of the respective valued inventory.

The holder has the rights and obligations inherent to the possession and enjoys the fruits with the limitation of reserving of these a part equal to the quota of free disposition of the absentee.

#### **Article 52.- Unavailability of the assets of the absent**

Those who have obtained temporary possession of the assets of the absentee may not transfer or encumber them, except in cases of necessity or utility subject to article 56.

#### **Article 53.- Registration of the judicial declaration of absence**

The judicial declaration of absence must be registered **in** the register of mandates and powers to extinguish those granted by the absent person.

#### **Article 54.- Appointment of the judicial administrator**

At the request of anyone who has obtained temporary possession of the assets of the absent person, the judicial administrator is appointed.

#### **Article 55.- Rights and obligations of the judicial administrator**

The rights and obligations of the judicial administrator of the absent's assets are:

1.
  1. Perceive the fruits.
  2. Pay the debts of the absentee and meet the expenses corresponding to the assets that he manages.
  3. Reserve in a bank account, or with the securities indicated by the judge, the fee referred to in article 51.

4. Regularly distribute the available balances among the persons indicated in article 50, in proportion to their eventual inheritance rights.
5. Exercise the judicial representation of the absentee with the special and general powers that the law confers, except those that import acts of disposition.
6. Exercise any other unanticipated attribution, if appropriate to the patrimony under its administration, with prior judicial authorization.
7. Be accountable for its administration in the cases indicated by law.

#### **Article 56.- Judicial authorization to dispose of the assets of the absent**

In case of necessity or utility and with prior judicial authorization, the administrator may alienate or encumber the absent's assets to the extent necessary.

#### **Article 57.- Supplementary application of procedural regulations**

In matters not provided for by articles 55 and 56, the provisions of the Code of Civil Procedures on judicial administration of common property apply.

#### **Article 58.- Food for forced heirs of the absentee**

The spouse of the absent person or other forced heirs who are economically dependent on him, who do not receive sufficient income to meet their food needs, may request the judge to assign a pension, the amount of which will be indicated according to the economic condition of the applicants and the amount of the affected patrimony.

This claim is processed according to the summary process of maintenance, in what is applicable.

#### **Article 59.- End of the judicial declaration of absence**

The effects of the judicial declaration of absence cease due to:

1.
  1. Return of the absent.
  2. Appointment of attorney with sufficient powers, made by the absent person after the declaration.
  3. Verification of the death of the absentee.
  4. Judicial declaration of presumed death.

#### **Article 60.- Restitution or succession of the patrimony of the absent**

In the cases of paragraphs 1 and 2 of article 59, the patrimony is restored to its owner, in the state in which it is found. The petition is processed as a non-contentious process with summons from those who requested the declaration of absence.

In the cases of paragraphs 3 and 4 of article 59, the succession is opened.

## **Title VII: End of person**

### **Chapter One: Death**

#### **Article 61.- End of person**

Death ends the person.

#### **Article 62.- Commotion**

If it cannot be proved which of two or more people died first, they are considered dead at the same time and there is no transmission of hereditary rights between them.

### **Chapter Two: Declaration of Presumed Death**

#### **Article 63.- Provenance of judicial declaration of presumed death**

The declaration of presumed death proceeds, without the absence being indispensable, at the request of any interested party or the Public Ministry in the following cases:

1.
  1. When ten years have passed since the last news of the disappeared person or five if he is more than eighty years old.
  2. When two years have elapsed if the disappearance occurred in circumstances that constitute danger of death. The term runs from the cessation of the dangerous event.
  3. When there is certainty of death, without the corpse being found or recognized.

#### **Article 64.- Effects of the declaration of presumed death**

The declaration of presumed death dissolves the marriage of the disappeared person. Said resolution is registered in the death registry.

#### **Article 65.- Content of the presumed death resolution**

The resolution declaring the presumed death indicates the probable date and, if possible, the place of death of the disappeared person.

### **Article 66.- Inadmissibility of the declaration of presumed death**

The judge who considers the declaration of presumed death inadmissible may declare the absence.

## **Chapter Three: Acknowledgment of Existence**

### **Article 67.- Acknowledgment of existence**

The existence of the person whose death has been judicially declared can be recognized at the request of her, any interested party, or the Public Ministry. The claim is processed as a non-contentious process, with summons from those who requested the declaration of presumed death.

### **Article 68.- Effects on the new marriage**

The acknowledgment of existence does not invalidate the new marriage that the spouse may have contracted.

### **Article 69.- Power to claim assets**

The recognition of existence empowers the person to claim their assets, according to law.

### **Article 70 to article 75: Repealed**

## **Second section: Legal persons**

### **Title I: General provisions**

### **Article 76.- Norms that govern the legal person**

The existence, capacity, regime, rights, obligations and purposes of the legal person are determined by the provisions of this Code or the respective laws.

The legal entity of internal public law is governed by the law of its creation.

### **Article 77.- Beginning of the legal entity**

The existence of the legal person under private law begins on the day of its registration in the respective registry, except as otherwise provided by law.

The effectiveness of the acts celebrated on behalf of the legal entity before its registration is subject to this requirement and its ratification within the three months following its registration.

If the legal person is not constituted or the acts carried out on its behalf are not ratified, those who have performed them are unlimited and jointly and severally liable to third parties.

#### **Article 78.- Difference between legal person and its members**

The legal entity has a different existence from its members and none of these nor all of them have the right to its patrimony nor are they obliged to satisfy their debts.

#### **Article 79.- Representative of the legal person member of another**

The legal person that is a member of another must indicate who represents it before it.

### **Title II: Association**

#### **Article 80.- Notion**

The association is a stable organization of natural or legal persons, or both, that through a common activity pursues a non-profit purpose.

#### **Article 81.- Statute of the association**

The statute must be recorded by public deed, except for a different provision of the law.

If the association is religious, its internal regime is regulated in accordance with the statute approved by the corresponding ecclesiastical authority.

#### **Article 82.- Content of the statute**

The statute of the association must state:

1.
  1. The name, duration and address.
  2. The ends.
  3. The assets that make up the social patrimony.
  4. The constitution and operation of the general assembly of associates, board of directors and other organs of the association.

5. The conditions for the admission, resignation and exclusion of its members.
6. The rights and duties of the associates.
7. The requirements for its modification.
8. The rules for the dissolution and liquidation of the association and those relating to the final destination of its assets.
9. The other agreements and conditions that are established.

### **Article 83.- Books of the association**

Every association must have an up-to-date registry book that contains the name, activity, address and date of admission of each of its members, indicating those who hold administrative or representative positions.

The association must also have minute books of the sessions of the general assembly and of the board of directors in which the agreements adopted will be recorded.

The books referred to in this article are kept with the formalities of the law, under the responsibility of the president of the board of directors of the association and in accordance with the requirements established by the statute.

### **Article 84.- General Assembly**

The general assembly is the highest body of the association.

### **Article 85.- Call**

The general assembly is convened by the president of the association's board of directors, in the cases provided for in the statute, when agreed by said board of directors or when requested by no less than a tenth of the associates.

If the request for these is not attended within fifteen days of being presented, or is denied, the call is made by the judge of first instance of the association's domicile, at the request of the members themselves.

The application is processed as a summary process.

The judge, if he supports the request, orders the call to be made according to the statute, indicating the place, day, time of the meeting, its purpose, who will preside over it and the notary who attests to the agreements.

## **Article 86.- Powers of the General Assembly**

The general assembly elects the people who make up the board of directors, approves the accounts and balances, decides on the modification of the statute, the dissolution of the association and other matters that are not the competence of other bodies.

## **Article 87.- Quorum to adopt resolutions**

For the validity of the general assembly meetings, the attendance of more than half of the associates is required, in the first call. On second call, the presence of any number of associates is sufficient. The agreements are adopted with the vote of more than half of the concurrent members.

To modify the statute or to dissolve the association, the attendance of more than half of the associates is required, on the first call. The agreements are adopted with the vote of more than half of the concurrent members. On second call, the agreements are adopted with the associates who attend and who represent no less than one-tenth.

The associates can be represented in general assembly, by another person. The statute may provide that the representative be another associate.

The representation is granted by public deed. It can also be conferred by other written means and only with a special character for each assembly.

## **Article 88.- Right to vote**

No associate is entitled by himself to more than one vote.

## **Article 89.- Very personal nature of the quality of the associate**

The quality of associate is inherent to the person and is not transferable, unless permitted by statute.

## **Article 90.- Resignation of associates**

The resignation of the associates must be formulated in writing.

## **Article 91.- Payment of fees owed**

The resigning associates, the excluded and the successors of the deceased associates are obliged to pay the fees that they have stopped paying, not being able to demand the reimbursement of their contributions.

## **Article 92.- Judicial challenge of agreements**

Every associate has the right to judicially challenge agreements that violate legal or statutory provisions.

Contesting actions must be exercised within a period of no more than sixty days from the date of the agreement. They can be filed by the attendees, if they had recorded their opposition to the agreement in the minutes, by non-concurrent associates and by those who have been illegitimately deprived of casting their vote.

If the agreement is inscribable in the registry, the challenge can be made within thirty days following the date on which the inscription took place.

Any associate can intervene in the lawsuit, at their own expense, to defend the validity of the agreement.

The challenge is demanded before the Civil Judge of the association's domicile and is processed as an abbreviated process.

## **Article 93.- Responsibility of the directors**

Associates who hold managerial positions are responsible to the association in accordance with the rules of representation, except those who have not participated in the act causing the damage or who record their opposition.

## **Article 94.- Dissolution of full right**

The association is dissolved by right when it cannot function according to its statute.

## **Article 95.- Dissolution by liquidation**

The Association is dissolved by liquidation, as agreed by its respective Board of Creditors in accordance with the law on the matter.

In case of accumulated losses, deducting the reserves greater than a third of the paid social capital, the Board of Directors must request the initiation of the Ordinary Bankruptcy Procedure of the association, in accordance with the law of the matter and under responsibility before the creditors for the damages and losses resulting from omission.

## **Article 96.- Dissolution for violating public order**

The Public Ministry may judicially request the dissolution of the association whose activities or purposes are or are contrary to public order or good customs.

The claim is processed as an abbreviated process, considering the association as the defendant. Any associate is entitled to intervene in the process. The sentence not appealed is raised in consultation with the Superior Court.

At any stage of the process, the Judge may issue precautionary measures suspending all or part of the association's activities, or appointing an auditor of the same.

#### **Article 97.- Dissolution due to lack of statutory**

If no rules have been provided in the association's bylaws for the case in which it cannot continue to function or for its dissolution, proceed in accordance with the provisions of article 599, subsection 2.

#### **Article 98.- Destination of the remaining assets to liquidation**

Once the association is dissolved and the liquidation concluded, the resulting net assets are delivered to the persons designated in the statute, with the exclusion of the associates. If this is not possible, the Civil Chamber of the respective Superior Court orders its application for similar purposes in the interest of the community, giving preference to the province where the association had its headquarters.

### **Title III: Foundation**

#### **Article 99.- Notion**

The foundation is a non-profit organization established through the allocation of one or more assets for the realization of religious, welfare, cultural or other objectives of social interest.

#### **Article 100.- Constitution of the Foundation**

The foundation is constituted by public deed, by one or more natural or legal persons, indistinctly, or by will.

#### **Article 101.- Constitutive act**

The constitutive act of the foundation must necessarily express its purpose and the asset or assets that are affected. The founder can also indicate the name and address of the foundation, as well as designate the administrator or administrators and indicate rules for its economic regime, operation and extinction, as well as the final destination of the heritage.

Legal persons or those who carry out specific functions in them may be appointed as administrators of the foundation. In the first case, the natural person who represents it must be appointed.

The registrar of legal persons must send to the Foundations Supervisory Board the title of constitution that lacks any of the requirements indicated in the first paragraph of this article. The Council shall proceed within a period of no more than ten days, in accordance with article 104, paragraphs 1 to 3, as the case may be.

#### **Article 102.- Revocation of the founder**

The power to revoke is not transferable. The act of constitution of the foundation, once registered, is irrevocable.

#### **Article 103.- Board of Supervision of Foundations**

The Foundations Supervisory Council is the administrative organization in charge of the control and surveillance of foundations.

Its integration and structure are determined in the law of the matter.

#### **Article 104.- Functions of the Foundations Supervisory Board**

The Foundations Supervisory Board exercises the following basic functions:

- 1.- Indicate the name and address of the foundation, when they do not include the constitutive act.
- 2.- Appoint the administrators when their appointment by the founder has been omitted or replace them when their activities cease for any reason, provided that the form or manner of replacing them had not been provided for in both cases in the constitutive act.

In the case provided for in the preceding paragraph, the beneficiaries or representatives of the beneficiary institutions are prevented from being appointed as administrators of the foundations. Also, in this case, the position of administrator cannot be delegated.

3. Determine, ex officio and with a hearing of the administrators or at their proposal, the economic and administrative regime, if it has been omitted by the founder, or modify it when it prevents normal operation or agrees to the purposes of the foundation.
4. Be aware of the plans and the corresponding annual budget of the foundations, for which they send a copy of them to the Board at least thirty days before the start date of the financial year.

5. Authorize the acts of disposition and encumbrance of the assets that are not the object of the ordinary operations of the foundation and establish the procedure to be followed, in each case.
6. Promote the coordination of foundations with similar purposes when their assets are insufficient for the fulfillment of the foundational purpose, or when such coordination determines a more efficient action.
7. Monitor that assets and income are used according to the proposed purpose.
8. Arrange the necessary audits.
9. Judicially challenge the agreements of the administrators that are contrary to the law or the constitutive act or demand the nullity or cancellation of the acts or contracts that they enter into, in the cases provided for by law. The challenge is processed as an abbreviated process; the claim for nullity or annulment as a process of knowledge.
10. Intervene as a party in the trials in which the validity of the constitutive act of the foundation is challenged.
11. Appoint the liquidator or liquidators of the foundation in the absence of provision in the constitutive act.
12. Keep an administrative record of foundations.

#### **Article 105.- Presentation of accounts and balances**

Administrators are obliged to submit to the Foundation Supervisory Council, for approval, the accounts and balance of the foundation, within the first four months of the year.

#### **Article 106.- Legal actions against administrators**

The Foundations Supervisory Council may initiate legal action against administrators who fail to submit the annual accounts and balance sheet of the foundation or if they were disapproved and in other cases of non-compliance with their duties.

At the request of the party, the judge of first instance may, for just cause, suspend the administrators.

Once the responsibility is declared, the administrators automatically cease in the exercise of their functions, without prejudice to the criminal action that may arise.

The suspended administrators are replaced in accordance with the provisions of the constitutive act or, failing that, by the Foundations Supervisory Board.

The demand for the presentation of accounts and balances and the suspension of the administrators in their position, are processed as an abbreviated process. The demand for the disapproval of accounts or balances and the demand for responsibility for breach of duties, as a process of knowledge.

#### **Article 107.- Persons prohibited to contract with Foundations**

The administrator or administrators of the foundation, as well as their relatives up to the fourth degree of consanguinity and second degree of affinity, cannot enter into contracts with the foundation, unless expressly authorized by the Foundations Supervisory Council.

The prohibition is extended to legal persons of which both the administrator or administrators of the foundation are partners, as well as their relatives in the degrees indicated in the previous paragraph.

**Article 108.-** The Foundations Supervisory Council, respecting as far as possible the will of the founder, may request the Civil Judge:

1.
  1. The extension of the purposes of the foundation to other similar ones, when the patrimony is notoriously excessive for the purpose instituted by the founder.
  2. The modification of the purposes, when the social interest referred to in article 99 has ceased.

The claim is processed as an abbreviated process, with a summons from the Public Ministry, considering the administrators of the foundation as summoned .

#### **Article 109.- Dissolution of the Foundation**

The Supervisory Board may request the dissolution of the foundation whose purpose is impossible to fulfill.

The claim is processed as an abbreviated process before the Civil Judge of the headquarters of the foundation, summoning the administrators. The lawsuit will be published three times in the newspaper in charge of judicial notices and in another one with national circulation, with five days between each publication.

The sentence not appealed is raised in consultation with the Superior Court.

## **Article 110.- Destination of the remaining assets to liquidation**

The net assets resulting from the liquidation of the foundation are applied to the purpose foreseen in the constitutive act. If this is not possible, it is intended, at the proposal of the Council, to increase the patrimony of one or more foundations with a similar purpose or, failing that, to the Public Charity for works of similar purposes to those of the foundation in the locality where it had its headquarters.

## **Title IV: Committee**

### **Article 111.- Notion**

The committee is the organization of natural or legal persons, or both, dedicated to the public collection of contributions destined for an altruistic purpose.

The constitutive act and the statute of the committee may be recorded, for their registration in the registry, in a private document with notarized legalization of the signatures of the founders.

### **Article 112.- Registration of members**

The committee must have an up-to-date record that contains the name, address, activity and date of admission of its members, indicating the members of the board of directors or persons who carry out any other administrative activity.

The registry must consist of a book kept with the formalities of the law, under the responsibility of the person who presides over the board of directors.

### **Article 113.- Statute of the Committee**

The committee bylaws must state:

1.
  1. The name, duration and address.
  2. The proposed altruistic purpose.
  3. The administrative regime.
  4. The constitution and operation of the general assembly and the board of directors, as well as any other administrative body.
  5. The appointment of the official who must have the legal representation of the committee.

6. The other agreements and conditions that are established.

#### **Article 114.- Call for the Board of Directors**

The board of directors is the committee's management body and is convened by the person who presides it in the cases provided for in the bylaws or when requested by any of the members of the board or a tenth of the members of the committee. If your application is denied or seven days have elapsed after it has been submitted without the call, proceed in accordance with the provisions of article 85.

#### **Article 115.- Powers of the General Assembly**

The general assembly elects the people who make up the board of directors. It can modify the statute, agree to dissolve the committee and adopt any other decision that is not within the competence of other bodies.

#### **Article 116.- *Quorum* for meetings and agreements**

For the validity of the meetings of the assembly, for the calculation of the quorum and for the votes, the provisions of articles 87, first paragraph, and 88 apply.

#### **Article 117.- Reporting of illegal acts and agreements**

Any member of the committee or board of directors has the right and the duty to report to the Public Ministry the agreements or acts that violate the legal or statutory provisions.

#### **Article 118.- Responsibility of the Board of Directors**

The members of the board of directors are jointly responsible for the conservation and due application of the contributions collected for the announced purpose.

#### **Article 119.- Control of contributions by the Public Ministry**

The Public Ministry monitors, ex officio or at the request of a party, that the contributions collected by the committee are conserved and used for the proposed purpose and, if necessary, may request the rendering of accounts, without prejudice to the civil or criminal action to there is room.

#### **Article 120.- Dissolution for violating public order**

The provisions of Article 96 apply to the Committee.

### **Article 121.- Dissolution and liquidation of the Committee**

Once the proposed purpose has been fulfilled, or if it has not been achieved, the board of directors proceeds to dissolve and liquidate the committee, presenting the Public Ministry with a copy of the final accounts.

### **Article 122.- Application of net assets**

The board of directors awards the payers the net assets resulting from the liquidation, if the accounts have not been challenged by the Public Ministry within thirty days of being presented. The disapproval of the accounts is processed as a process of knowledge, being entitled to intervene any of the members of the committee.

If the award to the outlays is not possible, the council will deliver the net assets to the local Public Charity entity, with the knowledge of the Public Ministry.

### **Article 123.- Supplementary application of rules**

The committee is also governed by articles 81 to 98, insofar as they are applicable.

## **Third section : Association, foundation and committee not registered**

### **Title I: Association**

#### **Article 124.- Regime of de facto association**

The internal organization and administration of the association that has not been established by means of a registered public deed, is regulated by the agreements of its members, applying the rules established in articles 80 to 98, as appropriate.

Said association may appear in court represented by the president of the board of directors or by the person acting in his stead.

#### **Article 125.- Common fund of the de facto association**

The contributions and fees of the associates, as well as the assets acquired by the association, constitute its common fund. While the association is in force, the division and partition of said fund cannot be requested, nor the reimbursement of the contributions of the associates.

#### **Article 126.- Responsibility for obligations of the representatives**

The common fund responds to the obligations contracted by the representatives of the association. Those acting on behalf of the association, even if they are not its representatives, are jointly liable for these obligations.

## **Title II: Foundation**

### **Article 127.- Registration of the de facto foundation**

If for any reason the constitutive act of the foundation fails to register, it is the responsibility of the Foundations Supervisory Board, the Public Ministry or whoever has a legitimate interest, to carry out the actions to achieve said registration.

### **Article 128.- Joint and several liability of administrators**

The administrators of the foundation, as long as it is not registered, are jointly and severally liable for the preservation of the assets assigned to the proposed purpose and for the obligations they have contracted.

### **Article 129.- Transfer of assets to another foundation**

If the registration referred to in article 127 is not possible, the Civil Chamber of the Superior Court of the foundation's headquarters, at the request of the Foundations Supervisory Council, the Public Ministry or whoever has a legitimate interest, will affect the assets to other foundations with similar purposes or, if this is not possible, to another foundation preferably established in the same judicial district.

## **Title III: Committee**

### **Article 130.- Committee of fact**

The committee that has not been constituted by means of a registered instrument is governed by the agreements of its members, applying the rules established in articles 111 to 123, as appropriate.

The committee can appear in court represented by the president of the board of directors or by whoever takes his place.

### **Article 131.- Joint and several liability of the organizers**

Those who appear as organizers of the committee and those who assume the management of the contributions collected, are jointly and severally liable for their conservation, their application to the announced purpose and the obligations contracted.

### **Article 132.- Dissolution and rendering of accounts at the request of the Public Ministry**

Once the proposed purpose has been fulfilled, or if it could not have been achieved, the Public Ministry requests, ex officio or at the request of a party, the dissolution of the committee and the judicial rendering of accounts, proposing the allocation of the resulting net assets for similar purposes.

### **Article 133.- Supervision of what is collected by the Public Ministry**

The Public Ministry monitors, ex officio or at the request of a party, that the contributions collected are duly conserved and applied to the announced purpose.

## **Section Four : Peasant and Native Communities**

### **Unique title: General provisions**

### **Article 134.- Notion and purposes of the Peasant and Native Communities**

The peasant and native communities are traditional and stable organizations of public interest, constituted by natural persons and whose aims are oriented to the better use of their heritage, for the general and equitable benefit of the community members, promoting their integral development.

They are regulated by special legislation.

### **Article 135.- Legal existence of the communities**

For the legal existence of the communities, in addition to registration in the respective registry, their official recognition is required.

### **Article 136.- Character of the communities' lands**

The lands of the communities are inalienable, imprescriptible and unattachable, except for the exceptions established by the Political Constitution of Peru.

Land owned according to the recognition and registration of the community is presumed to be communal property.

### **Article 137.- Statute of the communities**

The Executive Power regulates the statute of the communities, which establishes their economic and administrative autonomy, as well as the rights and obligations of their members and the other norms

for their recognition, registration, organization and operation.

### **Article 138.- General Assembly**

The general assembly is the supreme body of the communities. Community managers and representatives are elected periodically, by personal, equal, free, secret and mandatory vote.

### **Article 139.- Register and cadastre of the communities**

The communities have an updated general register with the name, activity, address and date of admission of each of their members, indicating those who hold management positions or representation.

The communities also have a cadastre in which the assets that make up their heritage are recorded.

The general register and the cadastre also contain the other data indicated by the special legislation.

## **Book II: Legal act**

### **Title I: General provisions**

#### **Article 140.- Notion of Legal Act: essential elements**

The legal act is the manifestation of will destined to create, regulate, modify or extinguish legal relationships. For its validity it is required:

1.
  1. Full capacity to exercise, except for the restrictions contemplated by law.
  2. Physically and legally possible object.
  3. Lawful end
  4. Observance of the prescribed form under penalty of nullity.

#### **Article 141.- Manifestation of will**

The manifestation of will can be express or implied. It is express when it is done orally or in writing, through any direct, manual, mechanical, electronic or other similar means.

It is tacit when the will is undoubtedly inferred from an attitude or behavioral circumstances that reveal its existence.

It cannot be considered that there is a tacit statement when the law requires an express statement or when the agent makes a reservation or statement to the contrary.

### **Article 141-A.- Formality**

In the cases in which the law establishes that the manifestation of will must be done through some express formality or requires a signature, it may be generated or communicated through electronic, optical or any other similar means.

In the case of public instruments, the competent authority must record the means used and keep a full version for later consultation.

### **Article 142.- Silence**

Silence matters a manifestation of will when the law or the agreement attributes that meaning to it.

## **Title II: Form of the legal act**

### **Article 143.- Freedom of form**

When the law does not designate a specific form for a legal act, the interested parties can use whatever they deem appropriate.

### **Article 144.- Forma *ad probationem* and *ad solemnitatem***

When the law imposes a form and does not sanction its non-observance with nullity, it constitutes only a means of proof of the existence of the act.

## **Title III: Representation**

### **Article 145.- Origin of representation**

The legal act can be carried out through a representative, unless otherwise provided by law.

The power of representation is granted by the interested party or is conferred by law.

### **Article 146.- Spousal representation**

Representation between spouses is allowed.

### **Article 147.- Plurality of representatives**

When there are several representatives, they are presumed to be so without distinction, unless it is expressly established that they will act jointly or successively or that they are specifically designated to perform different acts.

#### **Article 148.- Joint and several liability of the representatives**

If there are two or more representatives, they are jointly and severally bound by the represented party, provided that the power of attorney has been granted by a single act and for an object of common interest.

#### **Article 149.- Revocation of power**

The power of attorney can be revoked at any time.

#### **Article 150.- Plurality of represented**

The revocation of the power granted by several represented for an object of common interest, produces effect only if it is carried out by all.

#### **Article 151.- Appointment of a new representative**

The designation of a new representative for the same act or its execution by  
of the represented party, the revocation of the previous power of attorney matters. This takes effect from the moment it is communicated to the first representative.

#### **Article 152.- Communication of revocation**

The revocation must also be communicated to all those involved or interested in the legal act.

The revocation communicated only to the representative cannot be opposed to third parties who have contracted ignoring that revocation, unless it has been registered.

The rights of the represented against the representative remain safe.

#### **Article 153.- Irrevocable power of attorney**

The power of attorney is irrevocable as long as it is stipulated for a special act or for a limited time or when it is granted in the common interest of the principal and the representative or a third party.

The term of the irrevocable power of attorney cannot be longer than one year.

### **Article 154.- Resignation of the representative**

The representative can renounce representation by notifying the represented party. The representative is obliged to continue with the representation until his replacement, except for serious impediment or just cause.

The representative may withdraw from the representation if the represented representative has been notified of his resignation, a period of thirty days plus the term of the distance elapses, without having been replaced.

### **Article 155.- General and special power of attorney**

The general power of attorney only includes acts of administration.

The special power includes the acts for which it has been conferred.

### **Article 156.- Power by public deed for disposition acts**

In order to dispose of the principal's property or encumber his assets, it is required that the commission be established in an indubitable manner and by public deed, under penalty of nullity.

### **Article 157.- Personal nature of the representation**

The representative must personally carry out the assignment, unless the substitution has been expressly authorized.

### **Article 158.- Substitution and responsibility of the representative**

The representative is exempt from all responsibility when he makes the substitution in the person who was appointed. If the person of the substitute was not immediately indicated, but the representative was granted the power to appoint him, he is responsible when he incurs inexcusable fault in the election. The representative responds to the instructions given to the substitute.

The represented can act directly against the substitute.

### **Article 159.- Revocation of the substitute**

The substitution can be revoked by the representative, resuming power, unless otherwise agreed.

### **Article 160.- Direct representation**

The legal act executed by the representative, within the limits of the powers conferred on him, produces effect directly with respect to the represented party.

#### **Article 161.- Ineffectiveness of the legal act due to excess of powers**

The legal act executed by the representative exceeding the limits of the powers conferred on him, or violating them, is ineffective in relation to the represented party, without prejudice to the resulting responsibilities against him and third parties.

It is also ineffective before the supposed represented the legal act celebrated by a person who does not have the representation that is attributed.

#### **Article 162.- Ratification of the legal act by the represented**

In the cases provided for by article 161, the legal act may be ratified by the represented observing the prescribed form for its execution.

The ratification has retroactive effect, but the right of a third party is preserved.

The third party and the one who had entered into the legal act as a representative may resolve the legal act before ratification, without prejudice to the corresponding compensation.

The power to ratify is passed on to the heirs.

#### **Article 163.- Cancellation of the legal act due to defects of the will**

The legal act is voidable if the representative's will has been corrupted. But when the content of the legal act is totally or partially determined, previously, by the represented party, the act is voidable only if the latter's will is flawed with respect to said content.

#### **Article 164.- Manifestation of the quality of representative**

The representative is obliged to express in all the acts that he celebrates that he proceeds on behalf of his client and, if required, to prove his powers.

#### **Article 165.- Legal presumption of representation**

It is presumed that the clerk who works in establishments open to the public has the power of representation of his principal for the acts that are ordinarily carried out in them.

#### **Article 166.- Cancellation of the legal act of the representative with himself**

The legal act that the representative concludes with himself, in his own name or as a representative of another, is voidable, unless the law allows it, the represented party had specifically authorized it, or the content of the legal act had been determined in such a way that exclude the possibility of a conflict of interest.

The exercise of the action corresponds to the represented.

### **Article 167.- Special power for disposition acts**

Legal representatives require express authorization to perform the following acts on the assets of the represented:

- 1.- Dispose of them or tax them.
- 2.- Celebrate transactions.
- 3.- Celebrate arbitration commitment.
- 4.- Celebrate the other acts for which the law or the legal act require special authorization.

## **Title IV: Interpretation of the legal act**

### **Article 168.- Objective interpretation**

The legal act must be interpreted in accordance with what has been expressed in it and according to the principle of good faith.

### **Article 169.- Systematic interpretation**

The clauses of the legal acts are interpreted by means of the other, attributing to the doubtful ones the meaning that results from the set of all.

### **Article 170.- Comprehensive interpretation**

Expressions that have several meanings must be understood in the most appropriate to the nature and purpose of the act.

## **Title V: Modalities of the legal act**

### **Article 171.- Invalidation of the act due to improper conditions**

The illicit suspensive condition and the physically or legally impossible invalidate the act.

The unlawful resolution condition and the physically or legally impossible condition are considered not set.

#### **Article 172.- Nullity of the legal act subject to the will of the debtor**

The legal act whose effects are subordinate to a suspensive condition that depends on the exclusive will of the debtor is null.

#### **Article 173.- Performing acts of the acquirer**

Pending the suspensive condition, the acquirer can perform conservatory acts.

The acquirer of a right under a resolutive condition can exercise it pending this, but the other party can perform conservatory acts.

The debtor can repeat what he would have paid before the fulfillment of the suspensive or resolutive condition.

#### **Article 174.- Indivisibility of the condition**

Compliance with the condition is indivisible, even if it consists of a divisible benefit.

Once the condition is partially fulfilled, the obligation is not enforceable, unless otherwise agreed.

#### **Article 175.- Negative condition**

If the condition is that a certain event does not take place within a period, it will be understood as fulfilled from the expiration of the period, or from when it becomes true that the event cannot take place.

#### **Article 176.- Compliance and non-compliance with the condition due to bad faith**

If the fulfillment of the condition is prevented in bad faith by the party to whose detriment it should be carried out, it will be considered fulfilled.

On the contrary, it will be considered not complied with, if it has been carried out in bad faith by the party who takes advantage of such compliance.

#### **Article 177.- Irretroactivity of the condition**

The condition does not operate retroactively, unless otherwise agreed.

### **Article 178.- Effects of suspensive and resolution terms**

When the term is suspensive, the act does not take effect while it is pending. When the term is final, the effects of the act cease upon expiration.

Before the expiration of the term, whoever has the right to receive any benefit can exercise the actions leading to the protection of their right.

### **Article 179.- Benefit of the standstill period**

The standstill period is presumed to be established for the benefit of the debtor, unless the wording of the instrument or other circumstances proves to have been in favor of the creditor or both.

### **Article 180.- Right of repetition due to advance payment**

The debtor who paid before the expiration of the standstill period cannot repeat what was paid. But, if you paid due to ignorance of the deadline, you have the right to repeat it.

### **Article 181.- Expiration of the term**

The debtor loses the right to use the term:

1. When it becomes insolvent after the obligation is contracted, unless it guarantees the debt.

The insolvency of the debtor is presumed if within fifteen days of its judicial summons, it does not guarantee the debt or does not indicate goods free of encumbrance of sufficient value for the fulfillment of its provision.

2. When it does not grant the creditor the guarantees to which it has undertaken.

3. When the guarantees diminish due to the debtor's own act, or disappear for reasons not attributable to the latter, unless they are immediately replaced by other equivalent ones, to the satisfaction of the creditor.

The loss of the right to the term for the reasons indicated in the preceding paragraphs, is declared at the request of the interested party and is processed as a summary process. Precautionary measures designed to ensure credit satisfaction are especially appropriate.

### **Article 182.- Judicial period for compliance with the legal act**

If the act does not specify a term, but from its nature and circumstances it is deduced that it has wanted to be granted to the debtor, the judge sets its duration.

The judge also sets the duration of the period whose determination has been left to the will of the debtor or a third party and they do not indicate it.

The claim is processed as a summary process.

### **Article 183.- Rules for calculating the term**

The term is computed according to the Gregorian calendar, in accordance with the following rules:

1.

1. The period indicated by days is computed by calendar days, unless the law or the legal act establishes that it is done by business days.
2. The period indicated by months is fulfilled in the month of expiration and on the day of this corresponding to the date of the initial month. If such day is missing in the expiration month, the term is met on the last day of that month.
3. The period indicated by years is governed by the rules established in subsection 2.
4. The term excludes the initial day and includes the expiration date.
5. The term whose last day is non-business expires on the first following business day.

### **Article 184.- Rules extending to the legal or conventional term**

The rules of article 183 are applicable to all legal or conventional terms, unless otherwise provided or agreed.

### **Article 185.- Enforceability of office performance**

Compliance with the charge may be required by the imposing party or by the beneficiary. When the fulfillment of the position is of social interest, its execution may be demanded by the entity to which it concerns.

### **Article 186.- Judicial setting of the term to fulfill the position**

If there is no term for the execution of the charge, it must be fulfilled in the one indicated by the judge.

The claim is processed as a summary process.

**Article 187.- Inexigibility of the position**

The person taxed with the charge is not obliged to comply with it to the extent that it exceeds the value of the bounty.

**Article 188.- Transferability of the position**

The obligation to comply with the charges imposed for the acquisition of a right passes to the heirs of the one who was taxed with them, unless they could only be fulfilled by him, as inherent in his person.

In this case, if the taxpayer dies without complying with the charges, the acquisition of the right remains without effect, returning the assets to the imposing party or his heirs.

**Article 189.- Impossibility and illegality of the position**

If the fact that constitutes the charge is illegal or impossible, or becomes so, the legal act subsists without charge.

**Title VI: Simulation of the legal act****Article 190.- Absolute simulation**

By the absolute simulation it appears to celebrate a legal act when there is really no will to celebrate it.

**Article 191.- Relative simulation**

When the parties have wanted to conclude an act other than the apparent one, the concealed act has effect between them, provided that the requirements of substance and form meet and it does not harm the right of a third party.

**Article 192.- Partial simulation**

The rule of article 191 is applicable when the act refers to inaccurate data or a third party intervenes.

**Article 193.- Action for nullity of simulated act**

The action to request the nullity of the simulated act may be exercised by any of the parties or by the injured third party, as the case may be.

### **Article 194.- Unavailability of the simulation**

The simulation cannot be opposed by the parties or by the injured third parties who, in good faith and for consideration, have acquired the rights of the apparent owner.

## **Title VII: Fraud of the legal act**

### **Article 195.- Paulian action**

The creditor, even if the credit is subject to condition or term, can request that the gratuitous acts of the debtor be declared ineffective with respect to him for which he renounces rights or with which his known assets diminish and damage the collection of the credit. The existence of damage is presumed when the debtor's act results in the impossibility of paying the due benefit in full, or the possibility of collection is made difficult.

In the case of an onerous act, the following requirements must also meet:

1. If the credit is prior to the act of capital reduction, that the third party has had knowledge of the damage to the creditor's rights or that, depending on the circumstances, has been in a reasonable position to know or not ignore them and the eventual damage of the themselves.
2. If the act whose ineffectiveness is requested was prior to the emergence of the credit, that the debtor and the third party had performed it with the purpose of damaging the satisfaction of the credit of the future creditor. Said intention is presumed in the debtor when he has disposed of assets of whose existence he had informed the future creditor in writing. The intention of the third party is presumed when he knew or was able to know the future credit and that the debtor lacks other registered assets.

The creditor is responsible for proof of the existence of the credit and, where appropriate, the concurrence of the requirements indicated in sections 1 and 2 of this article. The debtor and the third party bear the burden of proof on the inexistence of the damage, or on the existence of sufficient free assets to guarantee the satisfaction of the credit.

### **Article 196.- Onerosity of the guarantees**

For the purposes of article 195, it is considered that the guarantees, even for third-party debts, are acts for consideration if they are prior or simultaneous with the guaranteed credit.

### **Article 197.- Protection of the sub- *acquiring party* in good faith**

The declaration of ineffectiveness of the act does not prejudice the rights acquired for consideration by third sub-acquirers in good faith.

#### **Article 198.- Inadmissibility of the declaration of ineffectiveness**

The declaration of ineffectiveness is not applicable when it comes to the fulfillment of an overdue debt, if it is recorded in a document of a certain date.

#### **Article 199.- Oblique action**

The creditor may exercise the corresponding actions against the third party purchasers over the assets that are the object of the ineffective act.

The third party purchaser who has credit rights pending the declaration of ineffectiveness against the debtor, cannot compete on the proceeds of the goods that have been the object of the ineffective act, but after the creditor has been satisfied.

#### **Article 200.- Ineffectiveness of a free or onerous legal act**

The ineffectiveness of free acts is processed as a summary process; that of onerous acts as a process of knowledge. Precautionary measures designed to prevent the damage from becoming irreparable are especially appropriate.

The pertinent bankruptcy provisions are exempt.

### **Title VIII: Vices of the Will**

#### **Article 201.- Error requirements**

The error is cause for annulment of the legal act when it is essential and knowable by the other party.

#### **Article 202.- Essential error**

The error is essential:

1.

1. When it falls on the very essence or a quality of the object of the act that, according to the general appreciation or in relation to the circumstances, must be considered determining the will.

2. When it falls on the personal qualities of the other party, provided that those have been determining factors of the will.
3. When the error of law has been the sole or determining reason for the act.

### **Article 203.- Knowable error**

The error is considered knowable when, in relation to the content, the circumstances of the act or the quality of the parties, a person of normal diligence could have noticed it.

### **Article 204.- Rectification of the legal act due to calculation error**

The calculation error does not give rise to the annulment of the act but only to rectification, unless consisting of an error on the amount has been determining of the will.

### **Article 205.- Cancellation of the legal act due to error in the reason**

The error in the motive only vitiates the act when it expressly manifests itself as its determining reason and is accepted by the other party.

### **Article 206.- Inadmissibility of voidability due to rectified error**

The party that makes an error cannot request the annulment of the act if, before having suffered a loss, the other party offers to comply in accordance with the content and the modalities of the act that it wanted to conclude.

### **Article 207.- Inadmissibility of compensation due to error**

The cancellation of the act by mistake does not give rise to compensation between the parties.

### **Article 208.- Cases in which the error in the declaration vitiates the legal act**

The provisions of articles 201 to 207 also apply, insofar as they are pertinent, to the case in which the error in the declaration refers to the nature of the act, the main object of the declaration or the identity of the person when the consideration to it would have been the determining motive of the will, as well as in the case in which the statement had been transmitted inaccurately by whoever was in charge of doing it.

### **Article 209.- Cases in which the error in the declaration does not vitiate the legal act**

The error in the declaration about the identity or the name of the person, the object or the nature of the act, does not vitiate the legal act, when by its text or the circumstances the person, the object or

the designated act can be identified .

### **Article 210.- Cancellation due to fraud**

The fraud is cause for cancellation of the legal act when the deception used by one of the parties has been such that without it the other party would not have performed the act.

When the deception is used by a third party, the act is voidable if it was known by the party that obtained benefit from it.

### **Article 211.- Incidental fraud**

If the deception is not of such a nature that the will has determined, the act will be valid, even if without it it would have been concluded under different conditions; but the party that acted in bad faith will be liable for compensation for damages.

### **Article 212.- Willful omission**

The malicious omission produces the same effects as the malicious action.

### **Article 213.- Reciprocal fraud**

For fraud to be cause for annulment of the act, it must not have been used by both parties.

### **Article 214.- Cancellation due to violence or intimidation**

Violence or intimidation are causes of annulment of the legal act, even if they have been used by a third party who does not intervene in it.

### **Article 215.- Intimidation**

There is intimidation when the agent is inspired by a well-founded fear of suffering imminent and serious harm in his person, his spouse, or his relatives within the fourth degree of consanguinity or second degree of affinity or in the property of one or the other.

In the case of other people or property, it will be up to the judge to decide on the annulment, depending on the circumstances.

### **Article 216.- Criteria to qualify violence or intimidation**

To qualify violence or intimidation, the age, sex, condition of the person and other circumstances that may influence its severity must be taken into account.

#### **Article 217.- Cases of non-intimidation**

The threat of the regular exercise of a right and simple reverential fear do not nullify the act.

#### **Article 218.- Nullity of the resignation of the action due to defects of the will**

The anticipated resignation to the action that is based on error, fraud, violence or intimidation is null.

### **Title IX: Nullity of the legal act**

#### **Article 219.- Grounds for nullity**

The legal act is void:

1.

1. When the agent's manifestation of will is missing.
2. Repealed.
3. When its object is physically or legally impossible or when it is indeterminable.
4. When its end is illegal.
5. When it suffers from absolute simulation.
6. When it does not review the prescribed form under penalty of nullity.
7. When the law declares it null.
8. In the case of article V of the Preliminary Title, unless the law establishes a different sanction.

#### **Article 220.- Allegation of nullity**

The nullity referred to in article 219 may be alleged by those who have an interest or by the Public Ministry.

It can be declared ex officio by the judge when it is manifest.

It cannot be remedied by confirmation.

#### **Article 221.- Grounds for voidability**

The legal act is voidable:

1.

1. Due to restricted exercise capacity of the person contemplated in paragraphs 1 to 8 of article 44.
2. For vice resulting from error, fraud, violence or intimidation.
3. By simulation, when the actual act that contains it damages the right of a third party.
4. When the law declares it voidable.

#### **Article 222.- Effects of nullity by judgment**

The voidable legal act is void from its conclusion, by effect of the sentence that declares it.

This nullity will be pronounced at the request of a party and cannot be alleged by other people than those for whose benefit it is established by law.

#### **Article 223.- Nullity of plurilateral act**

In cases in which several agents intervene and in which the benefits of each of them are directed to the achievement of a common goal, the nullity that affects the bond of only one of the parties will not matter the nullity of the act, unless her participation should be considered essential, according to the circumstances.

#### **Article 224.- Partial nullity**

The nullity of one or more of the provisions of a legal act does not harm the others, provided they are separable.

The nullity of singular provisions does not matter the nullity of the act when they are replaced by peremptory norms.

The nullity of the main obligation entails that of the accessory obligations, but the nullity of these does not give rise to that of the main obligation.

#### **Article 225.- Act and document**

The act should not be confused with the document that serves to prove it. The act may subsist even if the document is declared void.

#### **Article 226.- Restricted exercise capacity for personal benefit**

When there is more than one subject that makes up the same party, the restricted capacity to exercise article 44 of one of them cannot be invoked by the other that makes up the same party, except when the provision or its object is indivisible.

#### **Article 227.- Cancellation due to relative disability**

The obligations contracted by those over sixteen and under eighteen are voidable, when they result from acts carried out without the necessary authorization.

#### **Article 228.- Repealed**

#### **Article 229.- Repealed**

### **Title X: Confirmation of the legal act**

#### **Article 230.- Explicit confirmation**

Except for the right of a third party, the voidable act can be confirmed by the party to whom the cancellation action corresponds, by means of an instrument that contains the mention of the act to be confirmed, the cause of voidability and the express statement of confirming it.

#### **Article 231.- Confirmation by total or partial execution**

The act is also confirmed if the party to whom the action for annulment corresponded, knowing the cause, had executed it in whole or in part, or if there are facts that unequivocally show the intention to renounce the annulment action.

#### **Article 232.- Formality of confirmation**

The form of the confirmation instrument must have the same solemnities as those established for the validity of the act that is confirmed.

## **BOOK III: Family Law**

### **Section one : General provisions**

#### **Article 233.- Purpose of family regulation**

The legal regulation of the family is intended to contribute to its consolidation and strengthening, in harmony with the principles and norms proclaimed in the Political Constitution of Peru.

### **Article 234.- Notion of marriage**

Marriage is the union voluntarily arranged by a man and a woman legally fit for her and formalized in accordance with the provisions of this Code, in order to make life together.

Husband and wife have equal authority, considerations, rights, duties and responsibilities in the home.

### **Article 235.- Duties of parents**

Parents are obliged to provide for the support, protection, education and training of their minor children according to their situation and possibilities.

All children have equal rights.

### **Article 236. Kinship inbred**

Consanguineous kinship is the family relationship existing between people who descend from one another or from a common trunk.

The degree of kinship is determined by the number of generations.

In the collateral line, the grade is established by ascending from one of the relatives to the common trunk and then descending to the other. This relationship produces civil effects only up to the fourth degree.

### **Article 237.- Relationship by affinity**

Marriage produces kinship of affinity between each of the spouses with the consanguineous relatives of the other. Each spouse is in the same line and degree of kinship by affinity as the other by consanguinity.

Affinity in a straight line does not end with the dissolution of the marriage that produces it. Affinity subsists in the second degree of the collateral line in case of divorce and as long as the ex-spouse lives.

### **Article 238.- Relationship by adoption**

Adoption is a source of kinship within the scope of this institution.

## Second Section : **Conjugal Society**

### **Title I: Marriage as an act**

#### **Chapter One: Betrothal**

##### **Article 239.- Reciprocal promise of marriage**

The reciprocal promise of marriage does not generate a legal obligation to contract it, nor to comply with what is stipulated in the event of breach of it.

##### **Article 240.- Effects of the breaking of the marriage promise**

If the marriage promise is undoubtedly formalized between persons legally fit to marry and it is not fulfilled due to the sole fault of one of the promisors, thereby causing damages to the other or to third parties, the former will be obliged to compensate them.

The action must be filed within a period of one year from the breaking of the promise.

Within the same period, each of the fiancées can revoke the donations that he has made in favor of the other by reason of the projected marriage. When restitution is not possible, the provisions of article 1635 are observed.

#### **Chapter Two: Impediments**

##### **Article 241.- Absolute Impediments**

They cannot marry:

- 1.- Adolescents. The judge may dispense with this impediment for justified reasons, provided that the contracting parties are at least sixteen years old and expressly express their wish to marry.
- 2.- Persons with restricted capacity to exercise contemplated in article 44 numeral 9, as long as there is no manifestation of express or tacit will on this matter.
- 3.- Repealed.
- 4.- Repealed.
- 5.- The married ones.

## **Article 242.- Relative impediments**

They cannot marry each other:

1.

1. Consanguineous in a straight line. The ruling that condemns the payment of alimony in favor of the extramarital child not recognized or declared judicially also produces the impediment to which this subsection refers.
2. Inbreeding in collateral line within the second and third degrees. In the case of the third degree, the judge can dispense with this impediment when there are serious reasons.
3. The affine in a straight line.
4. Affiliates in the second degree of the collateral line when the marriage that produced the affinity was dissolved by divorce and the ex-spouse lives.
5. The adopter, the adoptee and their relatives in the lines and within the degrees indicated in items 1 to 4 for consanguinity and affinity.
6. The person convicted as a participant in the intentional homicide of one of the spouses, nor the one prosecuted for this cause with the survivor.
7. The abductor with the abducted or vice versa, as long as the abduction subsists or there is violent retention.

## **Article 243.- Special prohibitions**

Marriage is not allowed:

1.- Of the guardian or curator with the minor or with the person with restricted capacity to exercise of article 44 numerals 4 to 7 during the exercise of the position, nor before the accounts of the administration are judicially approved, unless the father or the mother of the person subject to guardianship had authorized the marriage by will or public deed.

The tutor who violates the prohibition loses the remuneration to which he is entitled, without prejudice to the responsibility derived from the performance of the position.

2.- Of the widower or widow who does not prove that they have made a judicial inventory, with the intervention of the Public Ministry, of the assets that they are managing belonging to their children or without prior sworn declaration that they have no children under their parental authority or of that they have no assets.

Violation of this rule leads to the loss of legal usufruct over the assets of said children.

This provision is applicable to the spouse whose marriage has been invalidated or dissolved by divorce, as well as to the father or mother who has extramarital children under their parental authority.

3.- Of the widow, as long as at least three hundred days have not elapsed since the death of her husband, unless she gives birth. This provision is applicable to a woman who is divorced or whose marriage has been invalidated.

The term is waived if the woman proves that she is not pregnant, by means of a medical certificate issued by the competent authority.

The widow who contravenes the prohibition contained in this subsection loses the property that she would have received from her husband for free.

The prohibition does not apply in the case of Article 333 subsection 5.

The presumption of paternity with respect to the new husband applies to the cases referred to in this subsection.

#### **Article 244.- Requirements for marriage between minors**

Minors, to marry, need the express consent of their parents. Disagreement between parents equals assent.

In the absence or absolute incapacity or removal of one of the parents from the exercise of parental authority, the consent of the other is sufficient.

In the absence of both parents, or if both are absolutely incapable or have been removed from the exercise of parental authority, the grandparents and grandmothers will give assent. With equal votes against, disagreement is equivalent to assent.

In the absence of grandparents or grandmothers or if they are absolutely incapable or have been removed from guardianship, it is up to the juvenile judge to grant or deny the supplementary license. The same attribution corresponds to the judge of minors, with respect to foundlings or abandoned minors or who are under special jurisdiction.

Extramarital children only require the consent of the father or, where appropriate, of the paternal grandparents, when the former has voluntarily recognized them. The same rule applies to the mother and grandparents in the maternal line.

#### **Article 245.- Refusal of the parents**

The refusal of the parents or ascendants to grant the assent does not require substantiation. There is no recourse against this refusal.

#### **Article 246.- Denial judicial resolution**

The negative judicial resolution referred to in article 244 must be substantiated and an appeal against it in both effects.

#### **Article 247.- Effects of the marriage of minors without authorization**

The minor who marries without the consent referred to in articles 244 and 245 does not enjoy possession, administration, usufruct or the power to encumber or dispose of his property, until he reaches majority.

The civil status registry official before whom the marriage was celebrated will suffer a fine of not less than ten monthly minimum vital wages of the corresponding place, without prejudice to the criminal responsibility that may arise.

### **Chapter Three: Celebration of marriage**

#### **Article 248.- Procedures for civil marriage**

Those who intend to contract a civil marriage will declare it orally or in writing to the provincial or district mayor of the domicile of any of them.

They will accompany a certified copy of the birth certificates, proof of address and medical certificate, issued no earlier than thirty days, proving that they are not involved in the impediments established in Article 241, paragraph 2 and 243 paragraph 3, or if there is no official and free medical service in the place, the sworn statement of not having such impediment.

They will also accompany in their respective cases, the judicial dispensation of impuberty, the instrument stating the consent of the parents or ascendants or the supplementary judicial license, the dispensation of the third degree collateral consanguinity relationship, certified copy of the death certificate of the previous spouse or the divorce or invalidation judgment of the previous marriage, the consular certificate of singleness or widowhood, and all other documents that may be necessary according to the circumstances.

Each suitor will also present two legal witnesses who have known him for at least three years before, who will testify, under oath, whether or not there is any impediment. The same witnesses can be for both suitors.

When the statement is oral, an act will be drawn up that will be signed by the mayor, the suitors, the persons who have given their consent and the witnesses.

#### **Article 249.- Judicial dispensation**

The judge of first instance may exempt the claimants from the obligation to present some documents, when they are very difficult or impossible to obtain.

#### **Article 250.- Publication of projected marriage**

The mayor will announce the projected marriage, by means of a notice that will be posted at the municipal office for eight days and that will be published once per newspaper, where there is one.

In the district where there is no newspaper, the notice will be made through the radio station of the respective locality chosen by the contracting parties, or the one closest to their locality; The published text must be delivered, with the signature and electoral book of the head of the radio station, to the head of the Civil Registries.

The notice will state the name, nationality, age, profession, occupation or trade, address of the contracting parties, the place where the marriage will be celebrated and the warning that everyone who knows the existence of any impediment must report it.

#### **Article 251.- Domicile edict**

If the domicile of the contracting parties is different, the corresponding mayor will be officiated to also order the publication prescribed in article 250, in his jurisdiction.

#### **Article 252.- Exemption from the publication of the marriage decree**

The mayor may waive the publication of the notices if there are reasonable causes and provided that all the documents required in article 248 are presented.

#### **Article 253.- Opposition of third parties to the celebration of the marriage**

All those who have a legitimate interest can oppose the celebration of the marriage when there is an impediment. The opposition is formulated in writing before any of the mayors who have published the notices.

If the opposition is not based on legal cause, the mayor will reject it outright, without admitting any appeal. If it is based on legal cause and the suitors deny its existence, the mayor will forward the action to the judge.

### **Article 254.- Opposition of the Public Ministry**

The Public Ministry must ex officio oppose the marriage when it has notice of the existence of any cause of nullity.

### **Article 255.- Complaint of matrimonial impediment by third party**

Any person who knows of the existence of an impediment that constitutes some cause of nullity, can report it.

The complaint can be made orally or in writing and will be sent to the Public Ministry, which, if it finds it founded, will formulate the opposition.

### **Article 256.- Opposition Procedure**

It is competent to hear the opposition to the marriage, the Justice of the Peace Lawyer of the place where it would be celebrated.

Once the opposition file has been sent by the mayor, the judge will require the opponent to file a claim within the fifth day. The Public Ministry will file your claim within ten days from the publication of the notice provided for in Article 250 or from the filing of the complaint cited in the previous Article.

Once the deadlines mentioned in the previous paragraph have expired without a claim having been filed, the proceedings will be definitively filed.

The opposition is processed as a summary process.

### **Article 257.- Compensation for unfounded opposition**

If the opposition is declared unfounded, the person who formulated it is subject to the payment of compensation for damages. The ascendants and the Public Ministry are exonerated of this responsibility. If the complaint had been malicious, the person making it is equally responsible. In both cases, the compensation is prudently set by the judge, taking into account the moral damage.

### **Article 258.- Declaration of capacity of the suitors**

Once the period indicated for the publication of the notices has elapsed without opposition having been produced or rejected, and the mayor not having notice of any impediment, he will declare the capacity of the suitors and that they can contract marriage within the following four months.

If the mayor has news of any impediment or if the documents presented and the information produced do not prove the capacity of the applicants, he will forward the action to the judge, who, with a summons from the Public Ministry, will resolve the appropriate, within the term of three days.

#### **Article 259.- Celebration of marriage**

The marriage is celebrated in the municipality, publicly, before the mayor who has received the declaration, the contracting parties appearing in the presence of two witnesses of legal age and residents of the place. The mayor, after reading articles 287, 288, 289, 290, 418 and 419, will ask each of the suitors if they persist in their will to celebrate the marriage and, answering both affirmatively, will issue the marriage certificate, which will be signed by the mayor, the contracting parties and the witnesses.

#### **Article 260.- Person empowered to celebrate marriage**

The mayor may delegate, in writing, the power to celebrate the marriage to other councilors, municipal officials, directors or heads of hospitals or similar establishments.

The marriage can also be celebrated before the parish priest or the Ordinary of the place by delegation of the respective mayor.

In this case, the parish priest or the Ordinary will send the marriage certificate to the registry office of the respective civil status within a period of no more than forty-eight hours.

#### **Article 261.-Celebration of marriage in different jurisdiction**

The marriage can be celebrated before the mayor of another municipal council, by written authorization of the competent mayor.

#### **Article 262.- Celebration of marriage in peasant and native communities**

Civil marriage can also be processed and celebrated in peasant and native communities, before a special committee constituted by the educational authority and made up of the two highest-ranking directors of the respective community. The chairmanship of the committee falls to one of the highest-ranking directors of the community.

#### **Article 263.- Faculty of the head of registry to celebrate marriage**

In the provincial capitals where the registry of civil status is in charge of special officials, the head of the former exercises the powers conferred on the mayors by this title.

### **Article 264.- Marriage by proxy**

The marriage can be contracted by an attorney-in-fact specially authorized by public deed, with identification of the person with whom it is to be celebrated, under penalty of nullity. The presence of the latter is essential in the act of celebration.

The marriage is void if the principal revokes the power of attorney or becomes incapacitated before the celebration, even when the attorney-in-fact ignores such facts. For the revocation to take effect, the attorney-in-fact and the other party must be notified.

The power of attorney expires six months after it is granted.

### **Article 265.- Marriage outside the municipal premises**

The mayor may, exceptionally, celebrate the marriage outside the premises of the municipality.

### **Article 266.- Gratuity of matrimonial procedures**

None of the civil servants or public servants involved in the processing and celebration of the marriage will charge any fees.

### **Article 267.- Sanctions to the offender of the gratuity**

The offender of article 266 will suffer removal from office, without prejudice to criminal responsibility.

### **Article 268.- Marriage due to imminent danger of death**

If either party is in imminent danger of death, the marriage can be celebrated without observing the formalities that must precede it. This marriage will be celebrated before the parish priest or any other priest and does not produce civil effects if either of the contracting parties is incapable.

Registration only requires the presentation of a certified copy of the parish certificate.

Said registration, whether or not the person in danger of death survives, must be made within the year following the marriage, under penalty of nullity.

## **Chapter Four: Proof of Marriage**

### **Article 269.- Proof of marriage**

To claim the civil effects of the marriage, a certified copy of the civil status record must be presented.

The constant possession of the state of marriage, according to the law, remedies any purely formal defect in it.

#### **Article 270.- Supplementary proof of marriage**

Once the lack or loss of the corresponding record or certificate has been verified, any other means of proof is admissible.

#### **Article 271.- Criminal sentence as proof of marriage**

If the proof of marriage results from a criminal proceeding, the registration of the sentence in the registry of civil status has the same probative force as the departure.

#### **Article 272.- Constant possession of married status**

The constant possession of the married state of the parents, constitutes one of the means of proof of marriage, if they had died or were unable to express themselves or provide information.

#### **Article 273.- Doubts about the celebration of marriage**

The doubt about the celebration of the marriage is resolved favorably to its preexistence if the spouses live or have lived in constant possession of the married state.

### **Chapter Five: Invalidity of Marriage**

#### **Article 274.- Grounds for nullity of marriage**

The marriage is void:

1.
  1. Of the mentally ill person, even when the illness manifests itself after the act is celebrated or it has lucid intervals. However, when the patient has recovered the fullness of his faculties, the action corresponds exclusively to the injured spouse and expires if it is not exercised within a period of one year from the day on which the incapacity ceased.
  2. The deaf-mute, the blind-mute and the blind-mute who do not know how to express their will in an indubitable way.

However, if they learn to express themselves without a doubt, the provisions of subsection 1 apply.

3. Of the married. However, if the first spouse of the bigamist has died or if the first marriage has been invalidated or dissolved by divorce, only the second spouse of the bigamist can demand the invalidation, provided that he had acted in good faith. The action expires if it is not filed within a period of one year from the day you became aware of the previous marriage.

In the case of a new marriage contracted by the spouse of a disappeared person without the presumed death of the latter having been declared, it can only be challenged, while the state of absence lasts, by the new spouse and provided that it had proceeded in good faith.

In the case of the marriage contracted by the spouse of whom was declared presumed dead, article 68 applies.

4. Of consanguineous or related in a straight line.
5. Of the consanguineous in second and third degree of the collateral line.  
However, in the case of the third degree, the marriage is validated if a judicial dispensation from kinship is obtained.
6. Of the affine in the second degree of the collateral line when the previous marriage was dissolved by divorce and the ex-spouse lives.
7. Of the person convicted of intentional homicide of one of the spouses with the survivor referred to in article 242, paragraph 6.
8. Of those who celebrate it regardless of the procedures established in articles 248 to 268.  
However, it is validated if the contracting parties have acted in good faith and the omission is corrected.
9. Of the contracting parties who, both acting in bad faith, celebrate it before an incompetent official, without prejudice to his administrative, civil or criminal responsibility. The action cannot be brought by the spouses.

#### **Article 275.- Action for annulment**

The nullity action must be filed by the Public Ministry and can be tried by those who have a legitimate and current interest in it. If the nullity is manifest, the judge declares it ex officio. However, once the marriage has been dissolved, the Public Ministry cannot attempt or pursue the nullity, nor can the judge declare it ex officio.

#### **Article 276.- Unquenchable action for annulment**

The annulment action does not expire.

## Article 277.- Grounds for annulment of marriage

The marriage is voidable:

1.

1. Of the pre-pubescent. The claim can be exercised by him after reaching the age of majority, by his ancestors if they have not given consent for the marriage and, in their absence, by the family council. An annulment cannot be requested after the minor has reached the age of majority, or when the woman has conceived. Even if the annulment has been declared, the spouses of legal age can confirm their marriage. Confirmation is requested from the Legal Justice of the Peace of the place of marital residence and is processed as a non-contentious process. The resolution approving the confirmation produces retroactive effects.
2. Of those who are prevented according to article 241, subsection 2. The action can only be attempted by the spouse of the patient and expires if it is not filed within a period of one year from the day on which he became aware of the illness or vice.
3. Of the kidnapper with the abducted or vice versa or the marriage carried out with violent retention. The action corresponds exclusively to the aggrieved party and will only be admissible if it arises within one year of the abduction or violent retention.
4. Of someone who is not in full exercise of their mental faculties for a temporary cause. The action can only be filed by him, within two years of the celebration of the marriage and provided that he has not lived together for six months after the cause disappeared.
5. Of the person who contracts it by mistake regarding the physical identity of the other contracting party or by ignoring some substantial defect in the same that makes common life unbearable. Substantial defects are said to be: dishonorable life, homosexuality, drug addiction, serious chronic illness, conviction for a fraudulent crime of more than two years imprisonment or concealment of sterilization or divorce. The action can be brought only by the injured spouse, within a period of two years after it was held.
6. Of those who contract it under threat of a serious and imminent illness, capable of producing in the threatened state of fear, without which they would not have contracted it. The judge will appreciate the circumstances, especially if the threat had been directed against third parties. The action corresponds to the injured spouse and can only be filed within a period of two years after it has been held. Simple reverential fear does not annul the marriage.
7. Of someone who suffers from absolute impotence at the time of celebrating it. The action corresponds to both spouses and is expedited as long as the impotence subsists. The annulment does not proceed if neither spouse can perform sexual intercourse.

8. Of those who, in good faith, celebrate it before an incompetent official, without prejudice to the administrative, civil or criminal responsibility of said official. The action corresponds only to the spouse or spouses in good faith and must be filed within six months after the celebration of the marriage.

#### **Article 278.- Personal nature of actions for nullity and voidability**

The action contracted in articles 274, paragraphs 1, 2 and 3, and 277 is not transmitted to the heirs, but they can continue the one initiated by the deceased.

#### **Article 279.- Non-transferability of the nullity action**

The nullity action that corresponds to the spouse in the other cases of article 274 is not transmitted to his heirs, who can continue the action initiated by his deceased. However, this does not affect the right to act that said heirs have by themselves as legitimate interested parties in the nullity.

#### **Article 280.- Request for invalidity by representation**

The invalidity of the marriage can be sued by proxy if it is expressly empowered and by public deed, under penalty of nullity.

#### **Article 281.- Procedure for invalidity of marriage**

The claim of invalidity of the marriage is processed as a process of knowledge, and the provisions established for the processes of separation of bodies or divorce by cause are applicable to it, as appropriate.

#### **Article 282.- Invalidity of marriage and parental authority**

When declaring the invalidity of the marriage, the judge determines what concerns the exercise of parental authority, subject to the provisions for divorce.

#### **Article 283.- Compensation for marriage invalidity**

The provisions established for the case of divorce with regard to compensation for damages are applicable to the invalidity of the marriage.

#### **Article 284.- Effects of the invalidated marriage**

The invalidated marriage produces civil effects with respect to the spouses and children if it was contracted in good faith, as if it were a valid marriage dissolved by divorce.

If there was bad faith in one of the spouses, the marriage does not produce effects in their favor, but it does with respect to the other and the children.

The error of law does not harm good faith.

### **Article 285.- Effects of matrimonial invalidity against third parties**

The invalidated marriage produces the effects of a valid marriage dissolved by divorce, vis-a-vis third parties who have acted in good faith.

### **Article 286.- Cases of validity of marriage**

The marriage contracted in violation of article 243 is valid.

## **Title II: Personal relationships between the spouses**

### **Sole Chapter: Duties and rights arising from marriage**

### **Article 287.- Common obligations of the spouses**

The spouses oblige each other by the fact of marriage to feed and educate their children.

### **Article 289.- Duty of cohabitation**

It is the duty of both spouses to live together in the conjugal home. The judge may suspend this duty when its fulfillment seriously endangers the life, health or honor of either spouse or the economic activity on which the support of the family depends.

### **Article 290.- Equality in the home**

Both spouses have the duty and the right to participate in the government of the home and to cooperate for the best development of the same.

It is equally incumbent upon both of them to establish and change the marital home and to decide matters relating to the household finances.

### **Article 291.- Unilateral obligation to support the family**

If one of the spouses is dedicated exclusively to housework and childcare, the obligation to support the family falls on the other, without prejudice to the help and collaboration that both spouses owe each other in both fields.

The obligation of one of the spouses to feed the other ceases when the latter leaves the conjugal home without just cause and refuses to return to it. In this case, the judge may, depending on the circumstances, order the partial seizure of the abandonment's income for the benefit of the innocent spouse and the children. The seizure order is without effect when both spouses request it.

**Article 292.-** The representation of the conjugal partnership is exercised jointly by the spouses, without prejudice to the provisions of the Civil Procedure Code. Either of them, however, may empower the other to exercise such representation in whole or in part.

For the ordinary needs of the home and acts of administration and conservation, the company is represented without distinction by either of the spouses.

If either spouse abuses the rights referred to in this article, the Legal Justice of the Peace may limit them in whole or in part. The claim is processed as an abbreviated process.

### **Article 293.- Freedom of work of the spouses**

Each spouse may exercise any profession or industry permitted by law, as well as carry out any work outside the home, with the express or tacit consent of the other. If he denies it, the judge may authorize it, if the interest of the family justifies it.

### **Article 294.- Unilateral representation of the conjugal partnership**

One of the spouses assumes the direction and representation of the company:

- 1.- If the other is impeded by interdiction or other cause.
- 2.- If the whereabouts of the other are unknown or they are in a remote place.
- 3.- If the other has left home.

## **Title III: Patrimonial regime**

### **Chapter one: General provisions**

### **Article 295.- Choice of the patrimonial regime**

Before the celebration of the marriage, the future spouses can freely opt for the joint property regime or for the separation of patrimonies, which will take effect when the marriage is celebrated.

If the future spouses opt for the separation of assets regime, they must grant a public deed, under penalty of nullity.

In order to take effect, you must be registered in the personal registry.

In the absence of a public deed, it is presumed that the interested parties have opted for the community property regime.

#### **Article 296.- Substitution of the Patrimonial Regime**

During the marriage, the spouses can substitute one scheme for the other. For the validity of the agreement, the granting of a public deed and registration in the personal registry are necessary. The new regime is effective from the date of its registration.

#### **Article 297.- Judicial substitution of the regime**

In the event that the community property regime is in force, any of the spouses may appeal to the judge so that said regime is replaced by the separation regime, in the cases referred to in article 329.

#### **Article 298.- Liquidation of the patrimonial regime**

At the end of the validity of a patrimonial regime, it will necessarily be liquidated.

#### **Article 299.- Assets of the patrimonial regime**

The patrimonial regime includes both the assets that the spouses had before it came into force and those acquired by any title during its validity.

#### **Article 300.- Mutual obligation to support the home**

Whatever the regime in force, both spouses are obliged to contribute to the maintenance of the home according to their respective possibilities and income.

In If necessary, the judge shall regulate the contribution of each.

### **Chapter two: Society of property**

#### **Article 301.- Assets of the community property**

In the community property regime there may be property of each spouse and property of the society.

## **Article 302.- Assets of the community property**

The property of each spouse is:

1.

1. Those that contribute at the beginning of the community property regime.
2. Those acquired during the validity of said regime for consideration, when the cause of acquisition has preceded it.
3. Those acquired during the validity of the regime for free.
4. Compensation for accidents or life insurance, personal injury or illness, deducting the premiums paid with assets of the company.
5. The copyright and inventor.
6. Books, instruments and tools for the exercise of the profession or work, unless they are accessories of a company that does not have the quality of its own good.
7. The shares and participations of companies that are distributed free of charge among the partners due to the revaluation of the social assets, when those shares or participations are their own property.
8. The life annuity free of charge and the one agreed for consideration when the consideration constitutes one's own good.
9. Dresses and objects for personal use, as well as diplomas, decorations, correspondence and family memories.

## **Article 303.- Administration of own assets**

Each spouse maintains the free administration of their own assets and can dispose of them or encumber them.

## **Article 304.- Irrevocability of acts of liberality**

Neither spouse can renounce an inheritance or legacy or stop accepting a donation without the consent of the other.

## **Article 305.- Administration of property of the other spouse**

If one of the spouses does not contribute with the fruits or products of their own assets to the maintenance of the home, the other can request that they pass to his administration, in whole or in part. In this case, he is obliged to constitute a mortgage and, if he lacks his own property, another guarantee, if possible, according to the prudent will of the judge, for the value of the property he receives.

### **Article 306.- Attribution of the managing spouse**

When one of the spouses allows their own assets to be administered in whole or in part by the other, the latter has only the powers inherent to mere administration and is obliged to return them at any time at the owner's request.

### **Article 307.- Payment of debts prior to the community property regime**

The debts of each spouse prior to the validity of the community property regime are paid with their own assets, unless they have been contracted for the benefit of the future home, in which case they are paid with social assets in the absence of the debtor's own assets.

### **Article 308.- Personal debts of the other spouse**

The property of one of the spouses is not liable for the personal debts of the other, unless it is proven that they were contracted for the benefit of the family.

### **Article 309.- Extra-contractual liability of the spouse**

The extra-contractual liability of one spouse does not harm the other in their own assets or in the part of those of the company that would correspond to them in the event of liquidation.

### **Article 310.- Corporate assets**

Social assets are all those not included in article 302, including those that either spouse acquires through their work, industry or profession, as well as the fruits and products of all their own assets and those of the company and the income from the rights of author and inventor.

The buildings built at the expense of the social wealth on land owned by one of the spouses also have the quality of social assets, the latter being paid the value of the land at the time of reimbursement.

### **Article 311.- Rules for qualifying goods**

For the classification of goods, the following rules apply:

1.
  1. All assets are presumed social, unless proven otherwise.
  2. Goods substituted or subrogated to others are said to have the same condition as those that were substituted or subrogated.

3. If some goods are sold, the price of which does not appear to have been invested, other equivalents are later bought, it is presumed, until proven otherwise, that the subsequent acquisition is made with the proceeds of the previous disposal.

### **Article 312.- Prohibition of contracts between spouses**

The spouses cannot enter into contracts with each other regarding the assets of the partnership.

### **Article 313.- Common administration of social assets**

The administration of the social assets corresponds to both spouses. However, either of them can empower the other to exclusively assume said administration with respect to all or some of the assets. In this case, the administrator spouse will compensate the other for the damages suffered as a result of malicious or negligent acts.

### **Article 314.- Administration of social and property assets by the other spouse**

The administration of the assets of the company and those of one of the spouses corresponds to the other in the cases of article 294, paragraphs 1 and 2.

If one of the spouses has left the home, the administration of social assets corresponds to the other.

### **Article 315.- Disposition of corporate assets**

To dispose of social assets or tax them, the intervention of the husband and wife is required. However, either of them can exercise this faculty, if they have the other's special power.

The provisions of the preceding paragraph do not apply to acts of acquisition of movable property, which can be carried out by either spouse. Nor does it apply in the cases considered in the special laws.

### **Article 316.- Charges of the company**

They are in charge of the company:

1.
  1. The support of the family and the education of common children.
  2. Food that one of the spouses is required by law to give to other people.
  3. The amount donated or promised to the common children by both spouses.

4. The necessary improvements and repairs of mere conservation or maintenance made on the property, as well as the remuneration and taxes that affect them.
5. The useful and recreational improvements that the company decides to introduce in the property of one of the spouses with the latter's consent.
6. The improvements and repairs made to corporate assets, as well as the taxes and payments that affect them.
7. The arrears or revenues accrued from the obligations to which both own and social assets were affected, whatever the period to which they correspond.
8. The burdens on usufructuaries with respect to the property of each spouse.
9. The expenses caused by the administration of the company.

#### **Article 317.- Liability for debts of the company**

The social assets and, in the absence or insufficiency of these, those of both spouses, respond pro rata for the debts that are borne by the company.

#### **Article 318.- End of the community of community**

The regime of the community property expires:

1.
  1. By invalidation of marriage.
  2. By separation of bodies.
  3. By divorce.
  4. By declaration of absence.
  5. Due to the death of one of the spouses.
  6. Due to change of patrimonial regime.

#### **Article 319.- End of the Company**

For the relations between the spouses, it is considered that the death of the joint property partnership occurs on the date of death or of the declaration of presumed death or absence; in the notification with the demand for invalidity of marriage, divorce, separation of bodies or judicial separation of property; and on the date of the public deed, when the separation of assets is established by mutual agreement. In the cases provided for in subsections 5 and 12 of Article 333, the joint property partnership expires from the moment the de facto separation occurs.

Regarding third parties, the community property regime is considered expired on the date of the corresponding entry in the personal registry.

### **Article 320.- Valuated inventory of social assets**

Once the joint property partnership has expired, the valued inventory of all assets is immediately formed. The inventory can be formulated in a private document with legalized signatures, if both spouses or their heirs agree. Otherwise the inventory is made judicially.

Ordinary household items are not included in the inventory in the cases of article 318, paragraphs 4 and 5, in which it corresponds to the spouse of the absent person or the survivor.

### **Article 321.- Goods excluded from household items**

The ordinary household goods do not include:

1.
  1. Dresses and objects for personal use.
  2. The money.
  3. The securities and other documents of a patrimonial nature.
  4. The jewelry.
  5. Medals, decorations, diplomas and other distinctions.
  6. Weapons.
  7. Instruments for professional or occupational use.
  8. Scientific or artistic collections.
  9. The cultural-historical assets.
  10. Books, files and their containers.
  11. Motorized vehicles.
  12. In general, objects that are not for domestic use.

### **Article 322.- Liquidation of the community of community**

Once the inventory has been carried out, the social obligations and charges are paid and then each spouse is reimbursed their own assets that remain.

### **Article 323.- Profit**

The remaining assets are community property after the acts indicated in article 322 have been carried out.

The joint assets are divided in half between both spouses or their respective heirs.

When the community property has died due to the death or declaration of absence of one of the spouses, the other has preference for the adjudication of the house in which the family lives and of the agricultural, artisan, industrial or commercial establishment of a family nature, with the obligation to reimburse excess value, if any.

#### **Article 324.- Loss of assets**

In the event of de facto separation, the guilty spouse loses the right to community property in proportion to the duration of the separation.

#### **Article 325.- Liquidation of several community property companies**

Whenever the liquidation of property of two or more marriages contracted successively by the same person has to be executed simultaneously, all kinds of tests to determine the assets of each society will be admitted, in the absence of inventories prior to each marriage; and, in case of doubt, the joint assets will be divided between the different companies, taking into account the time of their duration and the evidence that may have been acted on the property of the respective spouses.

#### **Article 326.- De facto union**

The de facto union, voluntarily carried out and maintained by a man and a woman, free from marital impediment, to achieve purposes and fulfill duties similar to those of marriage, originates a partnership of property that is subject to the community property regime, insofar as it is applicable, provided that said union has lasted at least two continuous years.

The constant possession of state from an approximate date can be proven with any of the means admitted by procedural law, provided that there is a principle of written evidence.

The de facto union ends by death, absence, mutual agreement or unilateral decision. In the latter case, the judge may grant, at the choice of the abandoned, an amount of money for compensation or a maintenance, in addition to the rights that correspond in accordance with the community property regime.

In the case of a de facto union that does not meet the conditions indicated in this article, the interested party has expedited, where appropriate, the action of undue enrichment.

The de facto unions that meet the conditions indicated in this article produce, with respect to their members, inheritance rights and duties, similar to those of marriage, so the provisions contained in articles 725, 727, 730, 731, 732, 822, 823, 824 and 825 of the Civil Code apply to the surviving member of the common-law union in the terms that would apply to the spouse.

## **Chapter Three: Separation of Assets**

### **Article 327.- Separation of the patrimony**

In the regime of separation of assets, each spouse fully retains the ownership, administration and disposition of their present and future assets and the fruits and products of said assets correspond to them.

### **Article 328.- Personal debts**

Each spouse is liable for their debts with their own assets.

### **Article 329.- Separation of assets due to declaration of insolvency**

In addition to the cases referred to in articles 295 and 296, the separation regime is established by the judge, at the request of the aggrieved spouse, when the other abuses the powers that correspond to them or acts with intent or negligence.

Once the claim has been filed, the judge may dictate, at the request of the plaintiff or ex officio, the orders concerning the security of the interests of the former. Said measures, as well as the sentence, must be entered in the personal registry to be effective against third parties. The separation takes effect between the spouses from the date of notification with the claim.

### **Article 330.- Separation of assets at the request of the aggrieved spouse**

The declaration of initiation of the Ordinary Bankruptcy Procedure of one of the spouses determines by right the substitution of the community property regime for the separation of assets and, in order to produce effects against third parties, it will be registered in the personal registry ex officio Request from the competent Bankruptcy Procedures Commission, the debtor, his spouse or the administrator or liquidator, president of the Creditors' Meeting or any interested creditor.

However, the foregoing, in the event that at the time of initiating the bankruptcy procedure of a natural person another procedure of the same nature was in force previously disclosed in accordance with the law of the matter with respect to the conjugal society that integrates, it is not it will produce the consequence foreseen in the preceding paragraph as long as the process of such procedure is developed.

### **Article 331.- End of the separation of assets**

The regime of separation of assets expires in the cases of article 318, paragraphs 1, 3, 5 and 6.

## **Title IV : Decay and dissolution of the bond**

### **Chapter one : Separation of bodies**

#### **Article 332.- Effect of the separation of bodies**

The separation of bodies suspends the duties related to the bed and room and puts an end to the patrimonial regime of community of property, leaving the marriage bond subsisting.

#### **Article 333.- Causes**

They are causes of separation of bodies:

1.

1. Adultery.
2. Physical or psychological violence, which the judge will assess according to the circumstances.
3. The attempt on the life of the spouse.
4. The grave injury, which makes life together unbearable.
5. The unjustified abandonment of the marital home for more than two continuous years or when the combined duration of the periods of abandonment exceeds this period.
6. Dishonorable conduct that makes life together unbearable.
7. The habitual and unjustified use of hallucinogenic drugs or substances that can generate drug addiction, except as provided in Article 347.
8. The serious sexually transmitted disease contracted after the celebration of marriage.
9. Homosexuality supervening on marriage.
10. The conviction for a fraudulent crime of imprisonment greater than two years, imposed after the celebration of the marriage.
11. The impossibility of living together, duly proven in a judicial process.
12. The de facto separation of the spouses for an uninterrupted period of two years. Said period will be four years if the spouses have minor children. In these cases, the provisions of Article 335 will not apply.
13. The conventional separation, after two years have elapsed from the celebration of the marriage.

#### **Article 334.- Holders of the action for separation of bodies**

The action of separation corresponds to the spouses.

If someone is incapable, due to mental illness or absence, the action can be exercised by any of their ancestors if it is based on a specific cause. In the absence of them, the special curator represents the incapable.

#### **Article 335.- Prohibition of alleging own fact**

Neither of the spouses can base the claim on their own deed.

#### **Article 336.- Inadmissibility of separation of bodies for adultery**

The separation of bodies for adultery cannot be attempted if the victim provoked, consented or forgave it. Cohabitation after knowing the adultery prevents the initiation or continuation of the action.

#### **Article 337.- Judicial assessment of cruelty, injury and dishonorable conduct**

The brutality, the grave injury and the dishonorable conduct are appreciated by the Judge taking into account the education, custom and conduct of both spouses.

#### **Article 338.- Inadmissibility of the action for known crime**

You cannot invoke the cause referred to in paragraph 10 of article 333, who knew the crime before getting married.

#### **Article 339.- Expiration of the action**

The action based on article 333, subsection 1, 3, 9 and 10, expires six months after the cause is known by the offended and, in any case, five years after it occurred. The one based on paragraphs 2 and 4 expires six months after the cause has occurred. In all other cases, the action is expedited while the facts that motivate it persist.

#### **Article 340.- Effects of conventional separation with respect to children**

The children are entrusted to the spouse who obtained the separation for a specific reason, unless the judge determines, for their welfare, that the other spouse is in charge of all or some of them or, if there is a serious reason, a third person. This designation must fall by order, and if possible and convenient, on one of the grandparents, brothers or uncles.

If both spouses are guilty, male children over seven years of age remain in the charge of the father and minor daughters, as well as children under seven years of age in the mother's care, unless the judge determines otherwise.

The father or mother to whom the children have been entrusted exercises parental authority over them. The other is suspended in the exercise, but resumes it with full right if the first dies or is legally impeded.

#### **Article 341.- Judicial rulings for the benefit of the children**

At any time, the judge may dictate at the request of one of the parents, siblings of legal age or the family council, the measures that are required by new facts and that he considers beneficial for the children.

#### **Article 342.- Determination of alimony**

The judge indicates in the sentence the alimony that the parents or one of them must pay to the children, as well as the one that the husband must pay to the wife or vice versa.

#### **Article 343.- Loss of hereditary rights**

The spouse separated by his fault loses the hereditary rights that correspond to him.

#### **Article 344.- Revocation of consent**

When the conventional separation is requested, either party may revoke their consent within thirty calendar days following the hearing.

#### **Article 345.- Parental authority and maintenance in conventional separation**

In the event of conventional separation or de facto separation, the judge establishes the regime concerning the exercise of parental authority, child support and that of the wife or husband, observing, as appropriate, the interests of the children. minors and the family or what both spouses agree on.

The provisions contained in Articles 340 last paragraph and 341 are applicable to conventional separation and de facto separation.

#### **Article 345-A.- Compensation in the event of damage**

To invoke the assumption of paragraph 12 of Article 333, the plaintiff must prove that he is up to date in the payment of his maintenance obligations or others that have been agreed by the spouses by mutual agreement.

The judge will ensure the economic stability of the spouse who is harmed by the de facto separation, as well as that of their children. You must indicate compensation for damages, including personal damage or order the preferential award of assets of the conjugal partnership, regardless of the alimony that may correspond.

The provisions contained in Articles 323, 324, 342, 343, 351 and 352 are applicable in favor of the spouse who is most harmed by the de facto separation, insofar as they are pertinent.

#### **Article 346.- Effects of the reconciliation of the spouses**

The effects of the separation for the reconciliation of the spouses cease. If reconciliation occurs during the trial, the judge orders the process to be halted. If it occurs after the final judgment, the spouses will present it to the judge within the same process.

Both the judgment and the reconciliation produced after it are entered in the personal register.

Once the spouses are reconciled, the separation can be demanded again only for new or recently known causes. In this trial, the pardoned facts will not be invoked, but only insofar as they contribute to the judge's appreciation of the value of said causes.

#### **Article 347.- Suspension of the duty of cohabitation**

In the event of a mental or contagious illness of one of the spouses, the other spouse may request that the obligation to live together be suspended, remaining the other conjugal obligations subsisting.

### **Chapter Two: Divorce**

#### **Article 348.- Notion**

Divorce dissolves the bond of marriage.

#### **Article 349.- Grounds for divorce**

Divorce can be sued for the reasons indicated in Article 333, paragraphs 1 to 12.

#### **Article 350.- Effects of divorce with respect to the spouses**

Due to divorce, the maintenance obligation between husband and wife ceases.

If the divorce is declared due to the fault of one of the spouses and the other lacks own or sufficient property assets or is unable to work or to meet their needs by other means, the judge will assign

alimony not greater than the third part of his income.

The ex-spouse can, for serious reasons, request the capitalization of the alimony and the delivery of the corresponding capital.

The indigent must be assisted by his ex-spouse even if he had given grounds for divorce.

The obligations referred to in this article automatically cease if the obligee contracts a new marriage. When the state of need disappears, the obligor can demand exoneration and, where appropriate, reimbursement.

#### **Article 351.- Reparation of the innocent spouse**

If the facts that have determined the divorce seriously compromise the legitimate personal interest of the innocent spouse, the judge may grant him a sum of money for reparation of the moral damage.

#### **Article 352.- Loss of assets by the guilty spouse**

The divorced spouse due to his fault will lose the assets that come from the other's assets.

#### **Article 353.- Loss of hereditary rights between divorced spouses**

Divorced spouses do not have the right to inherit from each other.

#### **Article 354.- Conversion period**

After two months have elapsed from the notification of the sentence, the mayoral decision or the notarial act of conventional separation, or the sentence of separation of bodies due to de facto separation, any of the spouses, based on them, may request, as appropriate, the judge, to the mayor or the notary who knew the process, that the marriage bond is declared dissolved.

The innocent spouse may exercise the same right of separation for specific reasons.

#### **Article 355.- Rules applied to divorce**

The rules contained in articles 334 to 342 are applicable to divorce, insofar as they are pertinent.

#### **Article 356.- Court of the reconciliation process**

During the processing of the divorce trial for a specific cause, the judge will order to cut the process if the spouses reconcile.

The last paragraph of article 346 is applicable to reconciliation.

If it is about the conversion of the separation into divorce, the reconciliation of the spouses, or the withdrawal of the person who requested the conversion, this request will be voided.

#### **Article 357.- Variation of the divorce demand**

The plaintiff may, at any stage of the case, vary his claim for divorce, turning it into one for separation.

#### **Article 358.- Power of the judge to vary the request**

Even if the claim or counterclaim is for divorce, the judge can declare separation, if it seems likely that the spouses will reconcile.

#### **Article 359.- Consultation of the sentence**

If the sentence declaring the divorce is not appealed, it will be consulted, with the exception of the one declaring the divorce on the merit of the conventional separation sentence.

#### **Article 360.- Continuity of religious duties**

The provisions of the law on divorce and separation of bodies do not extend beyond their civil effects and leave intact the duties imposed by religion.

### **Third section: Parent-subsidiary company**

#### **Title I: Marital affiliation**

##### **Chapter One: Matrimonial Children**

#### **Article 361.- Presumption of paternity**

The son or daughter born during the marriage or within three hundred (300) calendar days following its dissolution has the husband as the father, unless the mother expressly declares otherwise.

#### **Article 362.- Presumption of matrimonial child**

The son or daughter is presumed married, unless the mother expressly declares that it is not the husband's.

### **Article 363.- Denial of paternity**

The husband who does not think he is the father of his wife's child can deny it:

1.

1. When the child is born before the one hundred and eighty days following the celebration of the marriage.
2. When it is manifestly impossible, given the circumstances, that he has cohabited with his wife in the first one hundred and twenty-one days of the three hundred prior to the birth of the child.
3. When it is judicially separated during the same period indicated in subsection 2); Unless he had cohabited with his wife in that period.
4. When you suffer from absolute impotence.
5. When it is demonstrated through DNA testing or other tests of scientific validity with the same or greater degree of certainty that there is no parental bond. The Judge will reject the presumptions of the preceding paragraphs when a genetic test or another of scientific validity has been carried out with the same or greater degree of certainty.

### **Article 364.- Deadline for contesting action**

The contesting action must be filed by the husband within a period of ninety days from the day after the delivery, if he was present at the place, or from the day after his return, if he was absent.

### **Article 365.- Prohibition of denying the unborn child**

The paternity of the unborn child cannot be answered.

### **Article 366.- Inadmissibility of the contesting action**

The husband cannot answer the paternity of the child that his wife bore in the cases of article 363, paragraphs 1 and 3:

1.

1. If before the marriage or the reconciliation, respectively, you have had knowledge of the pregnancy.
2. If you have expressly or tacitly admitted that the child is yours.
3. If the child has died, unless there is a legitimate interest in clarifying the parent-child relationship.

### **Article 367.- Ownership of the contesting action**

The action to answer paternity corresponds to the husband. However, her heirs and her ascendants can initiate it if she had died before the expiration of the term indicated in article 364, and, in any case, continue the trial if she had initiated it.

### **Article 368.- Dispute action by the ascendants of the incapable husband**

The action can be exercised by the husband's ascendants, in the cases of articles 43, sections 2 and 3, and 44, sections 2 and 3. If they do not try, the husband can do so within ninety days after his termination. inability.

### **Article 369.- Defendants in the contesting action**

The action is brought jointly against the son and the mother, observing, where appropriate, the provisions of article 606, paragraph 1.

### **Article 370.- Burden of proof**

The burden of proof falls on the husband in the cases of article 363, paragraphs 2 and 4. In the case of paragraph 1, he is only required to present the marriage certificates and the certified copy of the birth certificate; and in section 3, the separation resolution and the certified copy of the birth certificate. It is up to the woman to prove, in their respective cases, that the situations provided for in article 363, paragraph 3, or article 366 have occurred.

### **Article 371.- Contest of maternity**

Maternity can be contested in cases of supposed childbirth or impersonation of the child.

### **Article 372.- Term to challenge maternity**

The action is filed within a period of ninety days from the day after the fraud was discovered and corresponds only to the alleged mother. Your heirs or ascendants can only continue the lawsuit if they started it. The action is directed against the son and, where appropriate, against whoever appears as the father.

### **Article 373.- Filiation action**

The child may request that his parentage be declared. This action is imprescriptible and will be tried jointly against the father and mother or against their heirs.

### **Article 374.- Transferability of the filiation action**

The action passes to the son's heirs:

1.

1. If he died before reaching twenty-three years of age without having filed the claim.
2. If he became incapable before reaching that age and died in the same state.
3. If the son started the trial.

In the case of the first two subsections, the heirs will have two years to file the action.

### **Article 375.- Evidence in marital affiliation**

The marital affiliation is proven with the birth certificates of the child and the parents' marriage certificates, or by another public instrument in the case of article 366, paragraph 2, or by a judgment that dismisses the claim in the cases of article 363.

In the absence of these tests, the marital affiliation is accredited by a sentence relapsed in court in which constant possession of the state has been demonstrated or by any means provided that there is a principle of written evidence that comes from one of the parents.

### **Article 376.- Challenge to marriage filiation**

When the constant possession of the state and the title given by the marriage and birth certificates are brought together in favor of marital affiliation, it cannot be contested by anybody, not even by the child himself.

## **Chapter Two: Adoption**

### **Article 377.- Notion of adoption**

By adoption, the adoptee acquires the quality of the adopter's child and ceases to belong to his consanguineous family.

### **Article 378.- Requirements for adoption**

For adoption it is required:

1.

1. That the adopter has moral solvency.
2. That the age of the adopter is at least equal to the sum of the majority and the child to be adopted.

3. When the adopter is married, the consent of his spouse concurs.
4. That when the adopter is cohabiting in accordance with the provisions of article 326, the consent of the other cohabiting party concurs.
5. That the adoptee give his assent if he is older than ten years.
6. That the parents of the adoptee agree if it were under their parental authority or under their guardianship.
7. That the guardian or curator of the adoptee and the family council be heard if the adoptee is incapable.
8. That it be approved by the judge, with the exception of the provisions of special laws.
9. That, if the adopter is a foreigner and the adoptee is a minor, he or she personally ratifies his will to adopt before the judge. This requirement is exempted if the minor is abroad for health reasons .

### **Article 379.- Adoption procedure**

Adoption is processed in accordance with the provisions of the Civil Procedure Code, the Code of Children and Adolescents, the Law for the protection of children and adolescents without parental care or at risk of losing them and its regulations and the Law on Notarial jurisdiction, as appropriate.

Once the procedure is finished, the Judge, the competent official, or the notary who processed the adoption, will officiate at the Civil Registries of the National Registry of Identification and Civil Status - RENIEC, to issue the corresponding birth certificate, replacing the original and noting the adoption outside of it to proceed with its filing.

In the new birth certificate, the adopting parents will be consigned as declarants, who will sign the certificate. Any mention of the adoption is prohibited, under the responsibility of the registrar.

The original entry remains valid only for the effect of marital impediments.

### **Article 380.- Irrevocability of the adoption**

The adoption is irrevocable.

### **Article 381.- Adoption as a pure act**

The adoption cannot be done under any modality.

### **Article 382.- Prohibition of plurality of adopters**

No one can be adopted by more than one person, except by spouses or partners in accordance with the provisions of article 326 of this Code.

### **Article 383.- Adoption of a ward and cured**

The guardian can adopt his ward and the curator his curate only after the accounts of his administration have been approved and the scope that results from them has been satisfied.

### **Article 384.- Inventory of the adoptee's assets**

If the person to whom it is intended to adopt has assets, the adoption cannot be carried out without such assets being inventoried and judicially appraised and without the adopter providing sufficient guarantee in the judgment of the judge.

### **Article 385.- Cessation of adoption at the request of the adoptee**

The minor or elderly disabled person who has been adopted may request that the adoption be rescinded within the year following his majority or the date his disability disappeared. The judge will declare it without further ado.

In this case, the consanguineous parentage and the corresponding item are recovered validity, without retroactive effect. The registry of the respective civil status will register the case by judicial order.

## **Title II : Extramarital filiation**

### **Chapter Three : Recognition of extramarital children**

#### **Article 386.- Extramarital child**

Extramarital children are those conceived and born out of wedlock.

#### **Article 387.- Evidence in extramarital filiation**

The recognition and the declaratory sentence of paternity or maternity are the only means of proof of extramarital affiliation.

Said recognition or declaration declaring paternity or maternity requires the establishment of a new birth certificate or certificate, in accordance with the procedure for issuing these.

#### **Article 388.- Recognition of extramarital child**

The extramarital child can be recognized by the father and the mother jointly or by only one of them.

### **Article 389.- Recognition by grandparents**

The extramarital child may be recognized by the grandparents of the respective line, in the case of the death of the father or the mother or when they are included in article 47 or also when the parents are under fourteen years of age. In the latter case, once the adolescent turns fourteen, she can recognize her son.

When the father or mother is included in article 44 paragraph 9, the extramarital child can be recognized through judicially designated supports.

### **Article 390.- Forms of recognition**

The recognition is recorded in the birth registry, in a public deed or in a will.

### **Article 391.- Recognition in the birth registry**

The recognition in the registry can be done at the time of registering the birth or in a subsequent declaration by means of a certificate signed by the person who practices it and authorized by the corresponding official.

### **Article 392.- Repealed**

### **Article 393.- Capacity to recognize**

Any person who is not included in the disabilities indicated in Article 389 and who is at least fourteen years old can recognize the extramarital child.

### **Article 394.- Recognition of deceased child**

The son who has died leaving descendants can be recognized.

### **Article 395.- Irrevocability of recognition**

The recognition does not admit modality and is irrevocable.

### **Article 396.- Recognition of extramarital child of married woman**

The son or daughter of a married woman can be recognized by his parent when the mother has expressly declared that it is not her husband's. This recognition can be carried out during the

registration of the birth when the mother and the parent go to the civil registry, or after the registration made only by the mother, when she has declared who the parent is.

It also proceeds when the husband has denied it and obtained a favorable judgment.

#### **Article 397.- Assent for the extramarital child to live in the conjugal home**

The extramarital child recognized by one of the spouses cannot live in the conjugal house without the consent of the other.

#### **Article 398.- Effects of the recognition of the child of legal age**

The recognition of a child of legal age does not confer inheritance rights or the right to maintenance on the person who does so, except in the event that the child has constant possession of the state or consents to the recognition.

#### **Article 399.- Challenge of recognition**

Recognition may be denied by the father or the mother who does not intervene in it, by the child himself or by his descendants if he had died, and by those who have a legitimate interest, without prejudice to the provisions of article 395.

#### **Article 400.- Term to deny recognition**

The deadline for denying recognition is ninety days, starting from the one in which the act was known.

#### **Article 401.- Denial of recognition upon termination of disability**

The minor or incapable child may in any case deny the recognition made in his favor within the year following his majority or the cessation of his incapacity.

### **Chapter Two : Judicial Declaration of Extramarital Affiliation**

#### **Article 402.- Origin of the judicial declaration of extramarital paternity**

Extramarital paternity can be judicially declared:

1.

1. When there is an undoubted letter from the father that admits it.

2. When the child is, or had been found up to a year before the lawsuit, in constant possession of the status of extramarital child, proven by direct acts of the father or his family.
3. When the alleged father had lived in concubinage with the mother at the time of conception. For this purpose, it is considered that there is a concubinage when a man and a woman, without being married to each other, live as such.
4. In cases of rape, kidnapping or violent retention of the woman, when the time of the crime coincides with that of conception.
5. In the event of a seduction fulfilled with a promise of marriage in contemporary times with the conception, provided that the promise is indubitable.
6. When the parental link between the presumed father and the son or daughter is proven through DNA testing or other genetic or scientific tests with the same or greater degree of certainty. The judge will dismiss the presumptions of the preceding paragraphs when a genetic test or another of scientific validity has been carried out with the same or greater degree of certainty.

#### **Article 403.- Repealed**

#### **Article 404.- Repealed**

#### **Article 405.- Commencement of the action before birth**

The action can be brought before the birth of the child.

#### **Article 406.- Defendants in the judicial declaration of paternity**

The action is brought against the father or against his heirs if he had died.

#### **Article 407. Holders action**

The action corresponds only to the child. However, the mother, even if she is a minor, can exercise it on behalf of the child, during the minority of the latter. The tutor and curator, if applicable, require authorization from the family council.

The action does not pass to the son's heirs. However, his descendants can continue the trial he started.

#### **Article 408.- Competent judge**

The action can be brought before the judge of the domicile of the defendant or the plaintiff.

### **Article 409.- Judicial declaration of extramarital maternity**

Extramarital maternity can also be declared judicially when the fact of childbirth and the identity of the child are proven.

### **Article 410.- Unquenchable action**

The action does not expire for the extramarital affiliation to be declared.

### **Article 411.- Supplementary regulations**

The provisions of articles 406 to 408 apply to the mother and her heirs.

### **Article 412.- Effects of the extramarital filiation judgment**

The sentence declaring paternity or extramarital maternity produces the same effects as recognition. In no case does it confer on the father or mother the right to food or inheritance.

### **Article 413.- Biological or genetic test**

Biological, genetic or other evidence of scientific validity with the same or greater degree of certainty is admissible in the processes regarding the declaration of paternity or extramarital maternity.

These tests are also admissible at the request of the plaintiff in the case of Article 402, paragraph 4), when there are several perpetrators of the crime. The paternity of one of the defendants will be declared only if any of the evidence rules out the possibility that it corresponds to the other authors. If one of the defendants refuses to submit to any of the tests, his paternity will be declared, if the examination rules out the others.

The maintenance obligation is joint and several with respect to those who refuse to submit to any of the tests.

### **Article 414.- Food for the mother and compensation for moral damage**

In the cases of article 402, as well as when the father has recognized the child, the mother has the right to food during the sixty days before and sixty after the delivery, as well as the payment of expenses caused by it and the pregnancy. You also have the right to be compensated for non-pecuniary damage in cases of abuse of authority or promise of marriage, if the latter undoubtedly consists of criminal cohabitation or minority at the time of conception.

These actions are personal, they must be filed before the birth of the child or within the following year; are directed against the father or her heirs and can be exercised before the judge of the domicile of the defendant or plaintiff.

### **Chapter Three: Supporting Children**

#### **Article 415.-Rights of the maintenance child**

Outside the cases of article 402, the extramarital child can only claim alimony from the person who has had sexual relations with the mother during the time of conception until the age of eighteen. The pension remains in force if the child, who has reached the age of majority, cannot provide for her subsistence due to physical or mental disability. The defendant may request the application of the genetic test or another of scientific validity with equal or greater degree of certainty. If these give negative results, it will be exempt from the provisions of this article.

Likewise, you may bring the cessation of the maintenance obligation before the same court that heard the maintenance process if it verifies through a genetic test or another of scientific validity with the same or greater degree of certainty that it is not the father.

#### **Article 416.- Repealed**

#### **Article 417.- Holder and recipient of the action**

The action that corresponds to the child in the case of article 415 is personal, is exercised through his legal representative and is directed against the presumed father or his heirs. These, however, do not have to pay the child more than what they would have received as heir if it had been recognized or judicially declared.

### **Title III: Parental authority**

#### **Sole Chapter: Exercise, content and termination of parental authority**

#### **Article 418.- Notion of Parental Rights**

By parental authority, parents have the duty and the right to care for the person and property of their minor children.

#### **Article 419.- Joint exercise of parental authority**

Parental authority is exercised jointly by the father and the mother during the marriage, both of which correspond to the legal representation of the child.

In case of dissent, the Judge of the Child and Adolescent decides, according to the summary process.

#### **Article 420.- Unilateral exercise of parental authority**

In the event of separation of bodies, divorce or invalidation of the marriage, parental authority is exercised by the spouse to whom the children are entrusted. The other is, meanwhile, suspended in its exercise.

#### **Article 421.- Parental authority of extramarital children**

Parental authority over extramarital children is exercised by the father or mother who has recognized them.

If both parents have recognized the child, the juvenile judge determines who has parental authority, taking into account the age and sex of the child, the circumstance of the parents living together or separately and, in any case, the interests of the minor..

The rules contained in this article are applicable to the mother, even if she is a minor. However, the judge may entrust the custody of the person or the property of the child to a curator, if the interest of the child so requires, when the father does not have parental authority.

#### **Article 422.- Personal relationships with children not subject to parental authority**

In any case, parents have the right to preserve with their children who are not under their parental authority the personal relationships indicated by the circumstances.

#### **Article 423.- Duties and rights of the exercise of parental authority**

The duties and rights of the parents who exercise parental authority are:

1.
  1. Provide for the support and education of children.
  2. Direct the educational process of the children and their training for work according to their vocation and aptitudes.
  3. Repealed
  4. Take advantage of the services of your children, taking into account their age and condition and without damaging their education.
  5. Having the children in their company and picking them up from the place where they were without their permission, resorting to the authority if necessary.

6. Representing children in acts of civil life.
7. Manage your children's assets.
8. Usufruct the assets of their children. In the case of products, the provisions of article 1004 are followed.

#### **Article 424.- Subsistence of the maintenance obligation to children of legal age**

The obligation to provide for the support of unmarried sons and daughters over eighteen years of age who are successfully pursuing studies in a profession or trade until they are 28 years old remains; and of unmarried sons and daughters who are not able to attend to their subsistence due to duly proven physical or mental incapacity.

#### **Article 425.- Assets excluded from legal administration**

Goods donated or left in a will to children are excluded from legal administration, under the condition that their parents do not manage them; and those acquired by the children through their work, profession or industry, exercised with the consent of their parents or given to them to carry out said activities.

#### **Article 426.- Guarantee for legal administration**

The parents are not obliged to provide a guarantee to ensure the responsibility of its administration, unless the judge, at the request of the family council, decides that they constitute it, as the interest of the child requires it. In this case, the guarantee must ensure:

- 1.- The amount of movable property.
- 2.- The income that the goods yielded for a year.
- 3.- The profits that any minor's company may leave for a year.

Sections 2 and 3 only apply when the parents do not have the usufruct of the managed assets.

#### **Article 427.- Obligation to account for the legal administration**

The parents are not obliged to give an account of their administration until the end of it, unless the judge, at the request of the family council, decides otherwise.

#### **Article 428.- Modification or suspension of guarantees and accounts**

The judge, at the request of the family council, can modify or suspend at any time the measures that he had issued in accordance with articles 426 and 427.

#### **Article 429.- Prohibition of an agreement between parents and children**

The child who has reached the age of majority cannot enter into agreements with his parents before the final account is approved by the judge, except for a judicial dispensation.

Neither does the voluntary inheritance or the legacy that the child leave in favor of their parents with their free disposal third, without such requirement, has no effect.

#### **Article 430.- Legal interest of the balance against the father**

The balance that results against the parents produces legal interest from one month after the termination of parental authority. This obligation is joint.

#### **Article 431.- Legal interest of the balance in favor of the parents**

If it is a balance in favor of the parents, it only accrues legal interest from the moment the minor receives their assets.

#### **Article 432.- Reciprocal action on payment**

The actions that reciprocally assist the parents and the child by reason of the exercise of parental authority expire three years after the approval of the final account.

This article is not applicable to the action related to the payment of the balance resulting from said account, which prescribes within the period indicated for the personal action.

#### **Article 433.- Administration in case of new marriage**

The father or mother who wants to contract a new marriage must ask the judge, before celebrating it, to summon the family council so that it can decide whether or not it should continue with the administration of the assets of their children from the previous marriage.

In cases of affirmative resolution, the new spouses are jointly and severally liable. If not, as well as when the father or mother excuses themselves from managing the children's assets, the family council will appoint a curator.

#### **Article 434.- Supplementary application of Article 433**

The parents of the extramarital child are subject to the provisions of article 433.

### **Article 435.- Curator for the administration of the minor's assets**

The judge can entrust to a curator, in whole or in part, the administration of the assets of the children subject to the parental authority of only one of the parents:

1.

1. When requested by the father himself, indicating the person of the curator.
2. When the other parent has named him in his will and the judge deems this appropriate.  
The appointment may fall to a legal person.

### **Article 436.- Goods exempted from legal usufruct**

The following are exempt from legal usufruct:

1.

1. The goods donated or left in a will to the children, on the condition that the usufruct does not correspond to the parents.
2. The goods donated or left in a will to the children so that their fruits are invested in a certain and determined purpose.
3. The inheritance that has passed to the children due to the unworthiness of the parents or because they have been disinherited.
4. The goods of the children that are given to them by their parents to carry out a job, profession or industry.
5. Those that the children acquire through their work, profession or industry exercised with the consent of their parents.
6. The sums deposited by third parties in savings accounts in the name of the children.

### **Article 437.- Charges of the legal usufruct**

The charges of the legal usufruct are:

1.

1. The obligations that weigh on all usufructuary, except that of providing a guarantee.
2. The expenses of the children included in article 472.

### **Article 438.- Losses of a company subject to legal usufruct**

If a company included in the legal usufruct leaves a loss for any year, the benefits of the following years correspond to the child until the loss is compensated.

#### **Article 439.- Seizure of the legal usufruct**

The legal usufruct can be seized by facts or debts of the parents, except for what is necessary to cover the obligations indicated in article 437.

#### **Article 440.- Non-transferability of the legal usufruct**

Parents cannot transfer their usufruct right, but they can renounce it.

#### **Article 441.- Judicial inventory of the child's assets**

The spouse who exercises parental authority after the marriage is dissolved, is obliged to make a judicial inventory of the assets of their children, under penalty of losing the legal usufruct.

As long as you do not comply with this obligation, you cannot remarry.

#### **Article 442.- Responsibility of parents over usufruct assets**

In the case of the goods included in the usufruct, and for the time it lasts, the parents are solely responsible for the property.

#### **Article 443.- End of administration and usufruct due to bankruptcy**

The legal administration and usufruct cease upon the declaration of bankruptcy.

#### **Article 444.- Loss of administration and usufruct due to new marriage**

The father or mother who marries without complying with the obligation imposed by articles 433 and 434 loses the administration and usufruct of the property of the children of the previous marriage, as well as those of the extramarital children and the new spouses remain jointly and severally liable. like tutors.

#### **Article 445.- Restitution of administration and usufruct by dissolution of the new marriage**

The father or mother recovers, in the case of article 444, the administration and usufruct of the assets of their children when the marriage is dissolved or annulled.

#### **Article 446.- Loss of administration and legal usufruct**

Whoever endangers the property of the children by exercising parental authority loses the administration and legal usufruct.

#### **Article 447.- Prohibition of parents to alienate and encumber their child's assets**

Parents cannot alienate or encumber the property of their children, or contract on their behalf obligations that exceed the limits of the administration, except for justified causes of necessity or utility and prior judicial authorization. The judge may order, where appropriate, that the sale be made after an appraisal and at a public auction, when the interests of the child so require.

#### **Article 448.- Judicial authorization to perform acts on behalf of the minor**

Parents also need judicial authorization to practice, on behalf of the minor, the following acts:

1.

1. Lease your assets for more than three years.
2. Make extrajudicial partition.
3. Compromise, stipulate arbitration clauses or submission to arbitration.
4. Give up inheritances, bequests or donations.
5. Enter into a partnership agreement or continue in the established one.
6. Liquidate the company that is part of your patrimony.
7. Give or borrow money.
8. Build, exceeding the needs of the administration.
9. Accept donations, bequests or voluntary inheritances with charges.
10. Agree on the demand.

#### **Article 449.- Opinion of the son on the disposition of his property**

In the cases of sections 2, 3 and 7 of article 448, articles 987, 1307 and 1651 also apply. In addition, in the cases referred to in articles 447 and 448, the judge must hear, if possible, to the minor who is sixteen years old, before giving his authorization. This is granted in accordance with the procedures established in the Code of Civil Procedures to alienate or oblige property of minors.

#### **Article 450.- Action for the nullity of acts celebrated by parents**

They can demand the nullity of the acts practiced in violation of articles 447, 448 and 449:

- 1.- The son, within the two years following his majority.

2.- The son's heirs, within two years after his death if it occurred before reaching majority.

3.- The legal representative of the child, if during the minority one of the parents ceases or both in parental authority. In this case, the term begins to run from when the termination occurs.

#### **Article 451.- Bank deposit of children's money**

The children's money, as long as it is invested in accordance with the provisions of article 453, must be placed under appropriate conditions in credit institutions and in the name of the minor.

#### **Article 452.- Judicial authorization to withdraw money**

The money referred to in article 451 cannot be withdrawn except with judicial authorization.

#### **Article 453.- Investment of the minor's money**

The minor's money, whatever its source, will be invested in properties or in mortgage bonds. To make other investments, parents need court authorization. This authorization will be granted when required or advised by the interests of the child.

#### **Article 454.- Duties of the children**

Children are obligated to obey, respect, and honor their parents.

#### **Article 455.- Right of the minor to accept goods free of charge**

The minor capable of discernment can accept voluntary donations, bequests and inheritances provided they are pure and simple, without the intervention of their parents. You can also exercise strictly personal rights.

#### **Article 456.- Authorization to the minor to contract obligations**

Without prejudice to the provisions of article 1358, the minor who is over sixteen years of age may contract obligations or renounce rights as long as their parents who exercise parental authority expressly or tacitly authorize the act or ratify it.

When the act is not authorized or ratified, the minor is subject to the restitution of the sum that would have been converted to his benefit. The minor who has acted with fraud is liable for the damages caused to a third party.

#### **Article 457.- Authorization for the minor to work**

The minor capable of discernment can be authorized by his parents to dedicate himself to a job, occupation, industry or trade. In this case, you can practice the acts required by the regular exercise of such activity, manage the assets that have been left to you for that purpose or that you acquire as a result of that activity, use them or dispose of them. The authorization can be revoked for justified reasons.

#### **Article 458.- Responsibility of the minor**

The minor capable of discernment is responsible for the damages he causes.

#### **Article 459.- Consent of the minor for acts of administration of their parents**

If possible, parents will consult the minor who is over sixteen years of age on important acts of the administration. The assent of the minor does not release the parents from responsibility.

#### **Article 460.- Appointment of special curator**

Whenever the father or mother has an interest opposed to that of their children, they will be appointed a special guardian.

The judge, at the request of the father or mother, the Public Ministry, any other person or ex officio, will confer the position on the relative to whom the legitimate guardianship corresponds. In the absence of this, the family council will choose another relative or a stranger.

#### **Article 461.- Causes of extinction of parental authority**

Parental authority ends:

1.
  1. For the death of the parents or the child.
  2. Due to the termination of the child's disability in accordance with article 46.
  3. For the son's eighteen years of age.

#### **Article 462.- Causes of loss of parental authority**

Parental authority is lost due to a sentence that produces it or for abandoning the child for six continuous months or when the combined duration of the abandonment exceeds this period.

#### **Article 463.- Causes of deprivation of parental authority**

Parents can be deprived of parental authority:

1.

1. For giving corrupt orders, advice, examples, or begging their children.
2. By treating them too harshly.
3. For refusing to lend them food.

#### **Article 464.- Repealed**

#### **Article 465.- Judicial authorization for children to live separately from their parents**

The judge may authorize the children, for serious reasons, to live separated from the father or mother who had married, placing them under the care of another person.

The judge sets the powers that it must exercise.

#### **Article 466.- Grounds for suspension of parental authority**

Parental authority is suspended:

1.

1. When the father or mother has restricted capacity to exercise according to article 44 numeral 9.
2. Due to the judicially declared absence of the father or mother.
3. When it is proven that the father or mother are in fact prevented from exercising it.
4. In the case of article 340

#### **Article 467.- Appointment of curator for representation in court**

In the cases of articles 446,463,464 and 466, subsection 3, the family council will provide a guardian for the child to represent him in the respective trial.

#### **Article 468.- Judicial appointment of curator**

The judge, at the request of a party or ex officio, will appoint a guardian for the children and will provide for their safety and that of their property in accordance with the pertinent regulations of the Civil Procedure Code, in case the family council does not comply with the provisions of Article 467, or that may be detrimental.

#### **Article 469.- Consequence of the loss, deprivation, limitation and suspension of parental authority**

The effects of the loss, deprivation, limitation and suspension of parental authority will extend to children born after it has been declared.

#### **Article 470.- Inalterability of the duties of parents**

The loss, deprivation, limitation or suspension of parental authority does not alter the parents' duties to their children.

#### **Article 471.- Restitution of parental authority**

Parents who have been deprived of parental authority or limited in its exercise, may request its restitution when the causes that determined it cease.

The action can only be tried after three years of serving the corresponding sentence. The judge will restore full or partial parental authority, as appropriate to the interest of the minor.

In cases of loss and suspension, the parents will re-exercise parental authority when the events that motivated them disappear; Except for the declaration of loss of parental authority due to a conviction for the commission of an intentional crime to the detriment of or to the detriment of the child or for the commission of any of the crimes provided for in articles 107, 108-B, 110, 125 148-A, 153, 153-A, 170, 171, 172, 173, 173-A, 174, 175, 176, 176-A, 177, 179, 179-A, 180, 181, 181-A, 183- A and 183-B of the Penal Code or, for any of the crimes established in Decree Law 25475, which establishes the penalty for crimes of terrorism and the procedures for investigation, investigation and trial.

### **Section Four: Family Protection**

#### **Title I: Food and family assets**

##### **Chapter One: Food**

#### **Article 472.- Notion of food**

Food is understood as what is essential for sustenance, housing, clothing, education, instruction and training for work, medical and psychological assistance and recreation, according to the situation and possibilities of the family. Also the expenses of the mother's pregnancy from conception to postpartum stage.

#### **Article 473.- Food for children of legal age**

Those over eighteen years of age are only entitled to food when they are unable to attend to their subsistence due to duly proven physical or mental incapacity.

If the cause that reduced him to that state was his own immorality, he can only demand what is strictly necessary to survive.

The provisions of the preceding paragraph do not apply when the obligee is the ancestor of the person obliged to provide maintenance.

#### **Article 474.- Reciprocal maintenance obligation**

They owe food reciprocally:

1.
  1. Spouses.
  2. The ascendants and descendants.
  3. Brothers.

#### **Article 475.- Priority of those obliged to pass food**

Food, when two or more are required to give it, are provided in the following order:

1.
  1. For the spouse.
  2. By descendants.
  3. By the ascendants.
  4. For the brothers.

#### **Article 476.- Gradation by order of legal succession**

Between the descendants and the ascendants, the gradation is regulated by the order in which they are called to the legal succession of the obligee.

#### **Article 477.- Proration of food**

When two or more are obliged to provide maintenance, the payment of the pension is divided among all in an amount proportional to their respective possibilities. However, in case of urgent need and due to special circumstances, the judge may oblige only one to lend them, without prejudice to their right to repeat the corresponding part of the others.

### **Article 478.- Alimony obligation of relatives**

If, taking into account the other obligations of the spouse debtor of maintenance, he is not in a position to provide them without endangering his own subsistence, according to his situation, the relatives are obliged before the spouse.

### **Article 479.- Obligation of maintenance between ascendants and descendants**

Between the ascendants and the descendants, the obligation to give each other food is due to the poverty of the person who must lend it to the next obligor.

### **Article 480.- Obligation with maintenance child**

The obligation to feed that a father and his unrecognized or declared extramarital child have, in accordance with the provisions of article 415, does not extend to the descendants and ascendants of the paternal line.

### **Article 481.- Criteria to fix food**

Alimony is regulated by the judge in proportion to the needs of the person requesting it and the possibilities of the person who must give it, also taking into account the personal circumstances of both, especially the obligations that the debtor is subject to.

The judge considers as an economic contribution the unpaid domestic work carried out by any of those obligated for the care and development of the obligee, in accordance with the provisions of the preceding paragraph.

You do not need to rigorously research the amount of income you need to pay for maintenance

### **Article 482.- Increase or decrease of food**

Alimony is increased or reduced according to the increase or decrease experienced by the needs of the obligee and the possibilities of the person who must pay it. When the amount of the pension has been set at a percentage of the obligor's remuneration, no new trial is necessary to readjust it. Said readjustment occurs automatically according to the variations in said remuneration.

### **Article 483.- Grounds for exoneration of maintenance**

The person obliged to provide food can ask to be exonerated if his income decreases, so that he cannot take care of her without endangering his own subsistence, or if the state of need has disappeared in the obligee.

In the case of minor children, to whom the father or mother was passing alimony by court decision, it ceases to apply when they reach the age of majority.

However, if the state of need persists due to duly proven physical or mental incapacity causes or the obligee is successfully pursuing a profession or trade, he may request that the obligation continue in force.

#### **Article 484.- Various forms of giving food**

The obligee may request that he be allowed to give maintenance in a way other than the payment of a pension, when special reasons justify this measure.

#### **Article 485.- Restrictions to the unworthy obligee**

The obligee who is unworthy to succeed or who may be disinherited by the debtor of the maintenance, can only demand what is strictly necessary to survive.

#### **Article 486.- Extinction of the maintenance obligation**

The obligation to provide maintenance is extinguished by the death of the obligee or the obligee, without prejudice to the provisions of Article 728.

In the event of the obligee's death, his heirs are obliged to pay the funeral expenses.

#### **Article 487.- Characteristics of the food law**

The right to ask for food is intransmissible, inalienable, intransigible and uncompensable.

### **Chapter Two: Family Patrimony**

#### **Article 488.- Characteristics of the family patrimony**

Family assets are unattachable, inalienable and transferable by inheritance.

#### **Article 489.- Assets affected family patrimony**

It can be the object of the family patrimony:

1. The family home.
2. A property intended for agriculture, crafts, industry or commerce.

Family assets may not exceed what is necessary for the residence or support of the beneficiaries.

### **Article 490.- Consequence of the constitution of family patrimony**

The constitution of the family patrimony does not transfer ownership of the assets of its constituent to the beneficiaries. They acquire only the right to enjoy said assets.

### **Article 491.- Judicial authorization to dispose of family assets**

Family assets may be leased only in situations of urgent need, temporarily and with the authorization of the judge.

Judicial authorization is also required to lease a part of the property when it is essential to ensure the sustenance of the family.

### **Article 492.- Seizure of fruits of the family patrimony**

The fruits of the family patrimony are seizable up to two-thirds, only to insure the debts resulting from criminal convictions, the taxes related to the property and the alimony.

### **Article 493.- People who can constitute family assets**

They can constitute family patrimony:

1.
  1. Either of the spouses on property they own.
  2. The spouses by common agreement on the assets of the company.
  3. The father or mother who has been widowed or divorced, on their own assets.
  4. The single father or mother on assets of their property.
  5. Any person within the limits in which they can freely donate or dispose of in a will.

### **Article 494.- Essential requirement to constitute family patrimony**

To exercise the right to establish family patrimony, it is an essential requirement not to have debts whose payment is prejudiced by the constitution.

### **Article 495.- Beneficiaries of the family patrimony**

Only spouses, children and other minor or incapable descendants, parents and other ascendants who are in need and minor or incapable siblings of the constituent can be beneficiaries of the family patrimony.

## **Article 496.- Requirements for the constitution of the family patrimony**

For the constitution of the family patrimony it is required:

1.

1. That the constituent formalize a request before the judge, in which he must specify his name and surname, age, marital status and address; individualize the property that it proposes to affect; provide the instrumental proof of not finding the property subject to mortgage, antichresis or registered seizure; and identify the beneficiaries with precision of the family bond that unites them.
2. To accompany the request, the minutes of constitution of the patrimony whose authorization is requested.
3. That an extract of the application be published for two days between days in the newspaper where there is one or by notice in the court where there is not.
4. That it be approved by the Judge, in accordance with the provisions for the non-contentious process.
5. That the minute be elevated to public deed.
6. That it be registered in the respective registry.

In the cases of constitution, modification or extinction of the family patrimony, the judge will hear the opinion of the Public Ministry before issuing resolution.

## **Article 497.- Administration of family assets**

The administration of the family patrimony corresponds to the constituent or the person that he designates.

## **Article 498.- Loss of beneficiary status**

They are no longer beneficiaries of the family assets:

1.

1. The spouses when they cease to be or die.
2. Minor or disabled children and minor or disabled siblings, when they die or come of age or the disability disappears.
3. Parents and other ascendants when they die or the state of need disappears.

## **Article 499.- Causes of extinction of family patrimony**

The family patrimony is extinguished:

1.

1. When all its beneficiaries cease to be in accordance with article 498.
2. When, without authorization from the judge, the beneficiaries stop living in the house or working the property for a continuous year.
3. When, having a serious need or mediated cause, the judge, at the request of the beneficiaries, declares it extinguished.
4. When the property on which it falls is expropriated. In this case, the expropriation proceeds must be deposited in a credit institution to constitute a new family patrimony. For one year, the fair price deposited will be unattachable. Any of the beneficiaries may demand, within the first six months, that the new patrimony be established. If at the end of the aforementioned year the constitution of a new patrimony has not been established or promoted, the money will be delivered to the owner of the expropriated assets.

The same rules apply in cases of destruction of the property when it generates compensation.

#### **Article 500.- Judicial declaration of extinction of the family patrimony**

The extinction of the family patrimony must be declared by the judge and registered in the public records.

#### **Article 501.- Modification of the family patrimony**

Family assets can be modified according to the circumstances, observing the same procedure as for its constitution.

### **Title II: Supplementary Amparo Institutions**

#### **Chapter One: Guardianship**

#### **Article 502.- Purpose of guardianship**

The minor who is not under parental authority will be appointed guardian to take care of his person and property.

#### **Article 503.- Powers to appoint tutor**

They have the power to appoint a guardian, in a will or by public deed:

1.

1. The surviving father or mother, for the children who are under their parental authority.
2. The grandfather or grandmother, for the grandchildren who are subject to their legitimate guardianship.
3. Any testator, for whom he or she establishes heir or legatee, if he / she lacks a guardian appointed by the father or mother and a legitimate guardian and the amount of the inheritance or legacy will suffice for the minor's maintenance.

#### **Article 504.- Appointment of guardian by one of the parents**

If one of the parents is incapable, the appointment of guardian made by the other will be valid, even if he dies first.

#### **Article 505.- Plurality of tutors**

If two or more guardians are appointed in a will or by public deed, the position will be carried out in the order of appointment, unless otherwise provided. In the latter case, if the institution has not established the way to exercise the powers of guardianship, it will be jointly held.

#### **Article 506.- Legitimate guardian**

In the absence of a guardian appointed in a will or by public deed, grandparents and other ancestors carry out the position, preferring:

1.

1. The closest to the most remote.
2. The most suitable, in equal degree. The preference is decided by the judge hearing the family council.

#### **Article 507.- Guardianship of extramarital children**

The guardianship referred to in article 506 does not take place with respect to extramarital children if it is not confirmed by the judge.

#### **Article 508.- Dative guardian**

In the absence of a testamentary or legal guardian and a legitimate guardian, the family council will appoint a dative guardian to a person residing in the place of the minor's domicile.

The family council will meet by order of the judge or at the request of the relatives, the Public Ministry or any person.

### **Article 509.- Term to ratify dative guardian**

The dative guardian will be ratified every two years by the family council, within a period of thirty days from the expiration of the period. Failure to pronounce the council within said period is equivalent to ratification.

### **Article 510.- State Guardianship**

The guardianship of children and adolescents in a situation of family vulnerability is regulated by the law on the matter.

### **Article 511.- Repealed**

### **Article 512.- Right to discern the position**

The tutor has the obligation to request the discernment of the position. If it does not do so, the judge must order it ex officio, or at the request of relatives, the Public Ministry or any person.

### **Article 513.- Validation by subsequent judgment.**

The discernment after the exercise of the position does not invalidate the previous acts of the tutor.

### **Article 514.- Precautionary measures**

While guardian is not appointed or guardianship is not discerned, the judge, ex officio or at the request of the Public Ministry, will dictate all the measures that are necessary for the care of the person and the security of the minor's property.

### **Article 515.- Impediments to exercise tutoring**

They cannot be tutors:

1.
  1. Minors. If they were named in a will or by public deed, they will exercise the position when they reach the majority.
  2. Those subject to curatorship.
  3. The debtors or creditors of the minor, for amounts of consideration, nor the guarantors of the former, unless the parents had appointed them knowing this circumstance.

4. Those who have in their own lawsuit, or that of their ascendants, descendants or spouse, an interest contrary to that of the minor, unless with knowledge of it they had been appointed by the parents.
5. Enemies of the minor or their ancestors or siblings.
6. Those expressly excluded from guardianship by the father or the mother.
7. The bankrupt and those who are subject to bankruptcy proceedings.
8. Those convicted of homicide, intentional injury, quarrel, abortion, exposure or abandonment of people in danger, suppression or alteration of marital status, or for crimes against property or good customs.
9. People with notorious misconduct or who have no known way of life.
10. Those who were removed from parental authority.
11. Those who were removed from another guardianship.

#### **Article 516.- Challenge of appointment of guardian**

Any interested party and the Public Ministry may challenge the appointment of a guardian made in violation of article 515.

If the challenge precedes the judgment of the position, the provisions of the Civil Procedures Code will be followed.

#### **Article 517.- Mandatory nature of the position of tutor**

The position of tutor is mandatory.

#### **Article 518.- People who can excuse themselves from the position of tutor**

They can excuse themselves from the position of tutor:

1.
  1. Strangers, if there is a suitable consanguineous relative in the place.
  2. The illiterate.
  3. Those who due to chronic illness cannot fulfill the duties of the position.
  4. Those over sixty years of age.
  5. Those who do not have a fixed address, due to their activities.
  6. Those who live far from the place where guardianship is to be exercised.
  7. Those who have more than four children under their parental authority.

8. Those who are or have been guardians or curators of another person.
9. Those who perform public functions that they consider incompatible with the exercise of guardianship.

### **Article 519.- Term to excuse the charge**

The tutor must propose his excuse within a period of fifteen days from when he had news of the appointment or since the cause occurred if he is exercising the position. You cannot propose it after that deadline.

### **Article 520.- Prerequisites to the exercise of guardianship**

The prerequisites to the exercise of guardianship are:

1.

1. The judicial inventory of the minor's assets, with the intervention of the minor if he is sixteen years old. Until this diligence is carried out, the goods remain in deposit.
2. The constitution of a mortgage or pledge guarantee, or a surety if it is impossible for the guardian to give any of those, to ensure the responsibility of its management. In the case of the legitimate guardian, the provisions of article 426 will be followed.
3. The discernment of the position. The guardian in the discernment of the position is obliged to promise that he will faithfully keep the person and assets of the minor, as well as to declare if he is his creditor and the amount of his credit under penalty of losing it or if he is his debtor or guarantor of the debtor.

### **Article 521.- Deposit of the minor's securities in a financial institution**

The values that in the judgment of the judge should not be in the custody of the guardian, will be deposited in credit institutions on behalf of the minor.

### **Article 522.- Deposit of the ward's money in a banking institution**

The provisions of article 451 apply to the minor's money.

### **Article 523.- Authorization for the withdrawal of securities and money**

The securities and money referred to in articles 521 and 522 cannot be withdrawn from credit institutions except by judicial order.

### **Article 524.- Investment of the minor's money**

The minor's money, whatever its source, will be invested in accordance with the provisions of article 453.

#### **Article 525.- Responsibility of the guardian for legal interests**

The guardian responds for the legal interests of the money that he is obliged to place, when due to his negligence it remains unproductive for more than a month, without this exempting him from the obligations imposed by articles 522 and 524.

#### **Article 526.- Duties of the tutor**

The guardian must feed and educate the minor according to his condition and protect and defend his person.

These duties are governed by the provisions relating to parental authority, under the supervision of the family council.

When the minor lacks assets or these are not sufficient, the guardian will demand the payment of alimony.

#### **Article 527.- Representation of the ward**

The guardian represents the minor in all civil acts, except in those that, by provision of the law, he can execute alone.

#### **Article 528.- Capacity of the ward under guardianship**

The capacity of the minor under guardianship is the same as that of the minor subject to parental authority.

#### **Article 529.- Obligation to administer diligently**

The guardian is obliged to administer the minor's assets with ordinary diligence.

#### **Article 530.- Right of the minor to appeal to the judge**

The minor who has reached the age of fourteen and any interested party can appeal to the judge against the acts of the guardian.

#### **Article 531.- Authorization to dispose of the ward's assets**

The minor's assets cannot be sold or encumbered except with judicial authorization, granted by necessity or utility, and with a hearing from the family council. Fruits are exempted from this provision insofar as they are necessary for the minor's nutrition and education.

### **Article 532.- Acts that require judicial authorization**

The guardian also needs judicial authorization granted after hearing from the family council to:

1.
  1. Practice the acts indicated in article 448.
  2. Make extraordinary expenses on the premises.
  3. Pay debts of the minor, unless they are small.
  4. Allow the minor capable of discernment to dedicate himself to a job, occupation, industry or trade, within the scope indicated in article 457.
  5. Enter into a service lease agreement.
  6. Enter into life insurance or annuity contracts for consideration.
  7. Any act in which the guardian's spouse, any of his relatives or any of his partners have an interest.

### **Article 533.- Intervention of the minor for acts that require judicial authorization**

In the cases of articles 531 and 532, when the minor is sixteen years old, if possible, the judge must hear him before granting his authorization.

### **Article 534.- Supplementary application of Article 449**

The provisions of article 449 apply to judicial authorization.

### **Article 535.- Sale outside the auction**

The sale can be made, exceptionally, out of auction, with the approval of the judge and prior hearing of the Public Ministry, when the interest of the minor requires it.

### **Article 536.- Acts performed without judicial authorization**

The acts carried out by the guardian without the judicial authorization required by articles 531 and 532, do not bind the minor except within the limits of the second paragraph of article 456.

### **Article 537.- Action for annulment of the ward for acts without authorization**

The action of the minor to annul the acts celebrated by the guardian without the legal formalities prescribes after two years. This period is counted from the day the disability ceased.

### **Article 538.- Acts prohibited to guardians**

Guardians are prohibited from:

1.
  1. Buy or lease the minor's assets.
  2. Acquire any right or action against the minor.
  3. Dispose of the minor's assets free of charge.
  4. Leasing the minor's assets for more than three years.

### **Article 539.- Judicial setting of the tutor's remuneration**

The guardian has the right to a remuneration that the judge will set taking into account the importance of the minor's assets and the work that his administration has demanded in each period.

Said remuneration shall never exceed eight percent of the income or liquid products consumed or ten percent of the capitalized.

### **Article 540.- Obligation of the tutor to account**

The tutor is obliged to account for his administration:

1.
  1. Annually
  2. At the end of the guardianship or leaving office.

### **Article 541.- Obligation of the legitimate guardian to give an account**

In the case of the legitimate guardian, the provisions of article 427 will be followed with regard to the obligation imposed by paragraph 1 of article 540.

### **Article 542.- Process of rendering and disapproval of accounts**

The surrender, at the request of the guardian or the family council, is presented in execution of the sentence of the abbreviated process. The presentation, at a hearing that the Judge will indicate for this purpose and with the presence of the minor if he is over fourteen years old, is made in writing,

attaching a copy of the supporting documents or offering other means of proof. At the hearing, the tutor will provide the explanations that are requested.

The demand for disapproval is formulated, if applicable, within the expiration period of sixty days after the accounts are submitted and is processed as a process of knowledge.

#### **Article 543.- Term of the tutor to render an account**

Once the account of the first year has been rendered, the judge may decide that the subsequent ones be rendered biennially, triennially or every five years, if the administration is not significant.

#### **Article 544.- Increase or decrease of the guardian's guarantee**

The guarantee provided by the guardian may be increased or decreased during the exercise of guardianship.

#### **Article 545.- Deposit and Investment of the balance in favor of the ward**

Articles 451 and 453 are applicable to the balance resulting from the annual account in favor of the minor.

#### **Article 546.- Prohibited acts of the ward before surrender**

The minor, who has reached the majority, may not enter into an agreement with his former guardian before the final account is judicially approved. The testamentary dispositions of the minor in favor of the guardian will not have effect without such requirement, except those referring to the legitimate one.

#### **Article 547.- Legal interest of the balance against the guardian**

The provisions contained in article 430 are applicable to the interests of the final account balance.

#### **Article 548.- Prohibition of dispensation to obligations of the guardian**

The obligations imposed by this chapter on guardians are not subject to waiver.

#### **Article 549.- End of guardianship**

Guardianship ends:

1.

1. For the death of the minor.
2. For reaching the minor at eighteen years.
3. Due to the termination of the minor's incapacity in accordance with article 46.
4. By ceasing the incapacity of the father or mother in the case of article 580.
5. By entering the minor under parental authority.

#### **Article 550.- Causes of extinction of the position of the tutor**

The position of guardian ceases:

1.
  1. - Due to the death of the guardian.
  2. - For the acceptance of his resignation .
  3. - By filing for bankruptcy.
  4. - For the non-ratification.
  5. - For its removal.

#### **Article 551.- Effects of the death of the guardian**

The heirs of the guardian, if they are capable, are obliged to continue the management of their deceased until a new guardian is appointed.

#### **Article 552.- Faculty of resignation of the dative guardian**

The dative guardian who has held the position for six years may resign it.

#### **Article 553.- Continuity of guardianship**

The guardian who resigns the guardianship, as well as the one whose appointment is contested, must exercise the position until he is relieved.

#### **Article 554.- Causes for removal of the guardian**

Will be removed from guardianship:

1.
  1. The one who incurs in any of the impediments of article 515, if he does not resign from the position.
  2. The one that causes damage to the minor in his person or interests.

### **Article 555.- Provisional suspension of the tutor**

The judge, after the petition for removal is presented, may provisionally suspend the guardian, if there is danger in the delay.

### **Article 556.- Protection of the minor and his property in the trial**

Once the demand has been answered by the testamentary or legitimate guardian, a legitimate guardian will be in charge of the minor and his or her assets during the trial and, in the absence of this, a dative one.

### **Article 557.- Removal of the guardian at the request of the ward**

The minor who has reached the age of fourteen can ask the judge to remove his guardian.

### **Article 558.- Obligated to request removal of the guardian**

The minor's relatives and the Public Ministry are obliged to request the removal of the guardian.

### **Article 559.- Complaint to the guardian**

Anyone can report the guardian for reasons that lead to his removal.

### **Article 560.- Summons to the family council**

If the judge is aware of any damage that the guardian causes to the minor, he will automatically summon the family council to proceed, depending on the circumstances, to use its powers for the benefit of the minor.

### **Article 561.- Reciprocal actions of the ward and guardian**

The provisions of article 432 are applicable to the reciprocal actions of the minor and the guardian.

### **Article 562.- Prescription of the action against judge**

Subsidiary liability actions against the judge prescribe six months from the day they could have been filed.

### **Article 563.- Informal tutor**

The person who is in charge of the business of a minor, will be responsible as if he were a guardian. This responsibility may be demanded by the Public Ministry, ex officio or at the request of any person.

The judge, at the request of the Public Ministry, can order that the guardianship be regularized. If this is not possible, it will arrange for the informal tutor to assume the position as dative.

## **Chapter Two: Curatela**

### **Article 564.- Persons subject to guardianship**

The persons referred to in article 44 numerals 4, 5, 6, 7 and 8 are subject to curatorship.

### **Article 565.- Purposes of the conservatorship**

The conservatorship is instituted to:

1.
  1. Repealed.
  2. The administration of assets.
  3. Certain matters.

### **Article 566.- Essential requirement for curatorship**

It is not possible to appoint a curator for persons with restricted capacity to exercise contemplated in article 44 in numbers 4 to 7 without a judicial declaration of interdiction.

### **Article 567.- Provisional curator**

The judge, in any stage of the trial, may provisionally deprive the person whose interdiction has been requested from exercising his civil rights and appoint him a provisional curator.

### **Article 568.- Additional rules applicable to conservatorship**

The rules relating to guardianship apply to guardianship, with the modifications established in this chapter.

### **Article 568-A.- Power to appoint its own curator**

Any older adult with full capacity to exercise their civil rights may appoint their curator, curators or substitute curators by public deed with the presence of two (2) witnesses, in anticipation of being

judicially declared interdicted in the future, registering said act in the Personal Registry of the National Superintendency of Public Records (Sunarp).

The judge in charge of the interdiction process requires the certification of the registry, in order to verify the existence of the appointment. The appointment made by the person himself binds the judge.

Likewise, the elderly person may decide on which persons such designation should not fall. It can also establish the scope of the powers that the person appointed as curator will enjoy.

#### **Article 569.- Repealed**

#### **Article 570.- Repealed**

#### **Article 571.- Repealed**

#### **Article 572.- Repealed**

#### **Article 573.- Appointment of curator by the family council**

In the absence of a legitimate curator and a testamentary or notarial curator, the guardianship corresponds to the person designated by the family council.

#### **Article 574.- Exoneration of inventory and rendering of accounts**

If the curator is the spouse, he or she is exempt from the obligations imposed by articles 520, section 1, and 540, section 1.

#### **Article 575.- Curatorship of the parents**

When the guardianship corresponds to the parents, it is governed by the provisions relating to parental authority.

#### **Article 576.- Functions of the curator**

The conservator protects the incapacitated person, provides as much as possible for his recovery and, if necessary, for his placement in a suitable establishment; and represents or assists him, according to the degree of disability, in his business.

#### **Article 577.- Destination of the fruits of the property of the incapable person**

The fruits of the property of the incapacitated person will be used mainly in their support and in seeking their restoration. If necessary, capital will also be used, with judicial authorization.

#### **Article 578.- Repealed**

#### **Article 579.- Exoneration of guarantees**

Legitimate curators are exempt from the obligation to guarantee their management, except as provided in article 426.

#### **Article 580.- Repealed**

#### **Article 581.- Repealed**

#### **Article 582.- Repealed**

#### **Article 583.- Empowered to request interdiction**

They can request the interdiction of the person with restricted capacity to exercise according to article 44 numerals 4 to 7, his spouse, his relatives or the Public Ministry.

#### **Article 584.- Prodigal**

He may be declared a prodigal who, having a spouse or forced heirs, squanders assets that exceed his available portion.

#### **Article 585.- Restriction of capacity due to bad management**

The person who for this reason has lost more than half of their assets, having a spouse or forced heirs, may be restricted in their capacity to exercise due to mismanagement.

It is up to the prudent discretion of the judge to appreciate the mismanagement.

#### **Article 586.- Curator for drunkards and drug addicts**

Will be provided with a curator who, because of his habitual drunkenness, or the use of substances that can generate drug addiction or hallucinogenic drugs, expose himself or his family to fall into misery, need permanent assistance or threaten the safety of others.

#### **Article 587.- Empowered to request guardianship for prodigal or bad manager**

Only their spouse, their forced heirs, and, by exception, the Public Ministry, ex officio or at the request of a relative, may request the guardianship of the prodigal or the bad manager, when they are minors or disabled.

#### **Article 588.- Empowered to request interdiction for drunkards and drug addicts**

They can only request the interdiction of the habitual drunkard and the drug addict, their spouse, the relatives who depend on him and, by exception, the Public Ministry itself or at the request of a relative, when they are minors or are disabled or when the incapable person constitutes a danger to the safety of others.

#### **Article 589.- Dative curator**

The guardianship of persons with restricted capacity to exercise referred to in articles 584, 585 and 586 corresponds to the person appointed by the judge, hearing the family council.

#### **Article 590.- Protection of the habitual drunkard and drug addict**

The curator of the habitual drunkard and the drug addict must provide for the protection of the incapacitated person, for their treatment and eventual rehabilitation in accordance with the rules contained in articles 576, 577 and 578.

#### **Article 591.- Acts prohibited from the injunction**

The prodigal, the bad manager, the habitual drunkard and the drug addict cannot litigate or practice acts other than the mere administration of their assets, without the special consent of the curator. The judge, when instituting the conservatorship, can also limit the capacity of the injunction regarding certain acts of administration.

#### **Article 592.- Repealed**

#### **Article 593.- Validity and invalidity of the acts of the incapable**

The acts of the prodigal and the bad manager prior to the interdiction request cannot be contested for this cause.

Those of the habitual drunkard and the drug addict may be if the cause of the disability had been notorious.

#### **Article 594.- Action for annulment of acts prohibited to the injunction**

The people who can promote the declaration of interdiction and the curator can demand the annulment of the patrimonial acts practiced in contravention of article 591.

### **Article 595.- Guardianship of the convicted person**

Once the criminal sentence that entails the civil interdiction has been executed, the prosecutor will request, within twenty-four hours, the appointment of a curator for the convicted person. If you do not do so, you will be responsible for any damages that may arise.

The spouse and relatives of the injunction may also request the appointment.

### **Article 596.- Priority, limits and functions of legitimate guardianship**

The conservatorship referred to in article 595 is discerned by the order established in article 569 and is limited to the administration of property and representation in court of the convicted person.

The curator is also obliged to take care of the person and property of the minors or the incapacitated who are under the authority of the injunction until they are provided with a guardian or another curator.

### **Article 597.- Curatorship of assets of the absent or disappeared person**

When a person is absent or has disappeared from their home, their whereabouts being ignored as established in article 47, the temporary guardianship of their property will be provided, observing the provisions of articles 569 and 573. In the absence of the persons called by these articles, the guardianship will be exercised by the one designated by the judge.

### **Article 598.- Curatorship of the posthumous son's assets**

At the request of any interested party or the Public Ministry, the assets that must correspond to the one who is about to be born, will be entrusted to a curator if the father dies while the mother is deprived of parental authority. This conservatorship corresponds to the person designated by the father for the custody of the child or the custody of his property, and failing that, the person appointed by the judge, unless the mother had been declared incapable, in which case its curator will also be it of the goods of the conceived.

### **Article 599.- Special custody of property**

The judge of first instance, ex officio or at the request of the Public Ministry or of any person who has a legitimate interest, must provide for the administration of the assets whose care is not the responsibility of anyone, and institute a guardianship, especially:

1.

1. When inheritance rights are uncertain.
2. When for any reason, the association or the committee cannot continue to function, without having provided any solution in the respective statute.
3. Repealed

#### **Article 600.- Curatorship of assets in usufruct**

When the usufructuary does not provide the guarantees to which he is obliged according to article I007, the judge, at the request of the owner, will appoint a curator.

#### **Article 601.- Competent judge and plurality of curators**

The curatorship referred to in articles 597 to 600 shall be instituted by the judge of the place where all or most of the assets are located.

There may be several curators, if the administration of the assets so requires.

#### **Article 602.- Legal representation by curator of assets**

The curator of assets cannot execute other administrative acts than those of custody and conservation, and those necessary for the collection of credits and payment of debts. However, the acts that are prohibited will be valid if, justifying their need or usefulness, the judge authorizes them, after hearing the family council.

#### **Article 603.- Representation by the curator**

Representation in court corresponds to the curator of property. People who have credits against the assets may claim them from the respective curator.

#### **Article 604.- Application of procedural norms to guardianship**

The curator instituted pursuant to articles 599, subsections 1 and 2, and 600 is also subject to the provisions of the Code of Civil Procedures.

#### **Article 605.- Powers and obligations of the curator indicated by the judge**

Without prejudice to what is established in articles 603 and 604, the judge who appoints the curator can point out his powers and obligations, regulating them, according to the circumstances, for what is foreseen for the tutors.

## **Article 606.- Cases in which a special curator is required**

A special curator will be appointed when:

1.

1. The interests of the children are in opposition to those of their parents who exercise parental authority.
2. Children acquire assets whose administration does not correspond to their parents.
3. Parents lose the administration of their children's assets.
4. The interests of the persons subject to guardianship or curatorship are in opposition to those of their guardians or curators, or those of other minors or persons with restricted capacity to exercise that with them are under a common guardian or conservator.
5. Minors or people with restricted exercise capacity included in article 44 paragraphs 1 to 8, who have assets far from their home and cannot be properly administered by the guardian or curator.
6. There are businesses that require special knowledge that the guardian or curator does not have, or a separate administration from the one performed by him.
7. Those who, being under guardianship or curatorship, acquire assets with the clause of not being administered by their guardian or general curator.
8. The legal representative is prevented from exercising his functions.
9. A capable person cannot intervene in an urgent matter or appoint a proxy.

## **Article 607.- Appointment of curator by extramarital father**

The extramarital father may appoint a curator in a will or by public deed to administer, with the exclusion of the mother or the guardian appointed by her, the assets that he leaves to his children. The same power has the extramarital mother.

## **Article 608.- Functions of the special curator**

The curators specially appointed for certain assets will be in charge of the administration of these in the time and form indicated by the testator or the donor who appointed them.

## **Article 609.- Appointment of special curator**

In the cases of subsections 1 and 9 of Article 606, the curator will be appointed by the judge. In all other cases, it will be done by the family council.

## **Article 610.- Cessation of conservatorship due to rehabilitation**

The curatorship instituted according to article 44, numerals 4 to 7, ceases by judicial declaration that lifts the interdiction.

Rehabilitation can be requested by the curator or by any interested party.

#### **Article 611.- Term of the custody of the convicted person**

The guardianship of the sentenced person that is attached to the civil interdiction ends at the same time as the deprivation of liberty.

The conditionally released remains under conservatorship.

#### **Article 612.- Repealed**

#### **Article 613.- Rehabilitation of the habitual drunkard, prodigal, drug addict and bad manager**

The rehabilitation of the person declared with restricted capacity to exercise in the cases referred to in article 44, numerals 4 to 7, can only be requested when for more than two years the injunction has not given rise to any complaint for facts similar to those who determined the conservatorship.

#### **Article 614.- Repealed**

#### **Article 615.- Cessation of custody of property**

The guardianship of the assets ceases due to their extinction or because the reasons that determined it have disappeared.

#### **Article 616.- Cessation of custody of assets of the disappeared**

The custody of the assets of the disappeared person ceases when he reappears or when he is declared absent or presumed dead.

#### **Article 617.- Cessation of guardianship of the goods of the conceived**

The guardianship of the goods of the conceived ceases by his birth or death.

#### **Article 618.- End of the special guardianship**

The special curatorship ends when the matters that determined it are concluded.

### **Chapter Three: Family Council**

### **Article 619.- Origin of the constitution of the Family Council**

There will be a family council to look after the person and interests of minors and the disabled of legal age who do not have a father or mother.

There will also be, even if the father or mother lives in the cases indicated in this Code.

### **Article 620.- Guardian not subject to the Family Council**

The legitimate guardian of a minor, who exercises custody over the father or mother of the minor, will not be subject to the family council except in the cases where the parents would be.

### **Article 621.- Obligated to request the formation of the Council**

The testamentary or notarial guardian, the ascendants called to the legitimate guardianship and the ex officio members of the council, are obliged to inform the juvenile judge or the justice of the peace, in their respective cases, the fact that makes the formation of the council necessary. , being responsible for the compensation of damages and losses if they do not proceed.

### **Article 622.- Formation of the Family Council by court order**

The juvenile or peace judge, where appropriate, may order the formation of the council, ex officio or at the request of the Public Ministry or of any person.

### **Article 623.- Composition of the Family Council**

The council is made up of the persons designated by will or public deed by the last of the parents who had the child under their parental authority or guardianship; and, failing that, by the persons designated by the last of the grandparents or grandmothers who would have had the minor or incapacitated person under their guardianship or curatorship.

In the absence of the persons mentioned, the council is formed by the grandparents and grandmothers, uncles and aunts, brothers and sisters of the minor or the disabled.

The children of the disabled eldest, other than his curators, are natural members of the council that is formed for him.

### **Article 624.- Cases in which the parents are ex officio members of the Family Council**

When parents do not have the administration of their children's assets, they will be ex officio members of the council that is satisfied.

### **Article 625.- Participation of siblings in the Family Council**

When, among the people capable of forming the council, there are fewer full siblings than half siblings, only the same number attend the former, excluding the younger ones.

### **Article 626.- Priority for the formation of the Family Council**

If there is not in the place where the council should be formed or within fifty kilometers, four born members, the juvenile judge or the peace judge, as the case may be, will complete that number by calling the other blood relatives, among which the closest to the most remote, and the oldest when they are of the same degree.

He will also call nephews and first cousins, following the same rule of preference, when there is no born member.

In the absence of the necessary number of members of the council, it will not be constituted, and its powers will be exercised by the judge, hearing from the ex officio members that may exist.

### **Article 627.- People not obliged to form part of the Family Council**

People who do not reside within fifty kilometers from where it operates cannot be compelled to form part of the council; but they are members if they accept the position, for which the judge must summon them, if they reside within the limits of their jurisdiction.

### **Article 628.- Family Council for extra-marital child**

The family council for an extramarital child is made up of the relatives of the father or mother, only when they have recognized it.

### **Article 629.- Correction of non-observance in the formation of the Family Council**

The judge can correct the non-observance of articles 623 to 628, if it is not due to fraud or causes damage to the person or property of the person under guardianship or curatorship. Otherwise, the formation of the council is null.

### **Article 630.- Inadmissibility of the Family Council for extramarital children**

There will be no family council for an extramarital child, when the father or mother have prohibited it in their will or by public deed. In this case, the juvenile judge or the peace judge, as the case may be, will assume the functions of the council, hearing any ex officio members.

### **Article 631.- Powers of superiors over foundlings and orphans**

The superiors of foundling and orphan establishments have over these all the powers that correspond to the council.

### **Article 632.- Persons prevented from being members of the Family Council**

They cannot be members of the council:

1. The tutor nor the curator.
2. Those who are prevented from being tutors or curators.
3. Persons who the father or mother, grandfather or grandmother have excluded from this position in their will or by public deed.
4. The children of the person who, due to abuse of parental authority, gives rise to their formation.
5. Parents, in the event that the council is formed during their lifetime, except as provided in article 624.

### **Article 633.- Free and inexcusable nature of the position of members of the Family Council**

The position of member of the council is free and inexcusable and must be performed personally unless the judge authorizes, for just cause, representation by proxy.

The proxy cannot represent more than one member of the council.

### **Article 634.- Formalities for the formation of the Council**

The person requesting the formation of the council must specify the names of those who must form it. The judge will order the application and the names to be published in newspapers or posters.

During the ten days following the publication, any interested party can observe the improper inclusion or exclusion. The judge will resolve within a period of five days having the accompanying evidence in view.

The claim does not prevent the council from starting or continuing its functions, unless the judge orders otherwise.

If the petitioner ignores the names of the people who should make up the council, the notice will be limited to calling those who believe themselves entitled. The judge will order the publication of the names of those who appear, observing the provisions of the second and third paragraphs of this article.

### **Article 635.- Installation of the Council**

After the period indicated in article 634 has elapsed without any observation having been made, or resolved, the judge will proceed to formally install the council, leaving a record in the minutes.

### **Article 636.- Summons to members of the Council**

Once the council is installed, its members will be summoned by obituary, whenever necessary.

### **Article 637.- Replacement of the members of the Council**

When, due to death, supervening impediment or absence without leaving a proxy, there are not four able members to attend the council, this number will be completed, keeping the same rules as for its formation.

### **Article 638.- Council in favor of absentees**

Council is also formed to exercise its powers in favor of the absent.

### **Article 639.- Presidency of the Council**

The juvenile judge presides over the council that is formed to supervise the guardian or, where appropriate, the parents. The justice of the peace presides over it when it is formed for the disabled of legal age.

The judge executes the council's agreements.

### **Article 640.- Call of the Council**

The judge will summon the council at the request of the guardian, the curator, or any of its members, and whenever, in his opinion, the interest of the minor or the incapacitated person requires it.

### **Article 641.- Quorum and majority to adopt resolutions**

The council cannot adopt a resolution without at least three of its members being present at the deliberation and voting, in addition to the judge, and without the agreement of votes among the majority of the attendees. The judge only votes in the event of a tie.

### **Article 642.- Fine for non-attendance**

Each time a member present at the site fails to attend the council meeting without legitimate cause, the judge will impose a fine equivalent to no more than twenty percent of the monthly living wage. This fine is final and will be applied in favor of the charities.

#### **Article 643.- excused absence**

If the cause alleged by a member of the council for not attending a meeting is justified, the judge may defer it to another day as long as he deems it convenient and the interests of the minor or incapacitated are not harmed.

#### **Article 644.- Impediment of attendance and voting**

No member of the council will attend its meeting or cast a vote when it comes to matters in which he or his descendants, ascendants or spouse have an interest, but may be heard if the council deems it appropriate.

#### **Article 645.- Assistance of tutor and curator without the right to vote**

The tutor or curator have the obligation to attend council meetings when summoned. They may also attend as long as the council meets at their request. In both cases they will lack a vote.

#### **Article 646.- Assistance of the cured**

The person under guardianship who is over fourteen years of age may attend the council meetings, with voice, but without vote.

#### **Article 647.- Powers of the Family Council**

It is up to the council:

1.

1. Appoint dative guardians or general and special dative curators, in accordance with this Code.
2. To admit or not the excuse or resignation of the dative tutors and curators that I name.
3. Declare the incapacity of the dative guardians and curators that he names, and remove them at his discretion.
4. Provoke the judicial removal of the legal guardians and curators, of the testamentary or notarial deeds and of those appointed by the judge.

5. Decide, in view of the inventory, the part of income or products that should be invested in the food of the minor or the incapacitated person, where appropriate, and in the administration of their assets, if the parents had not set it.
6. Accept the donation, inheritance or legacy subject to charges, left to the minor or, where appropriate, to the incapable.
7. Authorize the guardian or curator to hire one or more special administrators under his / her responsibility, when this is absolutely necessary and approved by the judge.
8. Determine the amount from which begins for the guardian or curator, as the case may be, the obligation to place the surplus of the income or products of the minor or incapable.
9. Indicate the goods that must be sold in case of need or due to manifest utility.
10. Exercise the other attributions granted by this Code and the Code of Civil Procedures.

#### **Article 648.- Appeal of resolutions of the Council chaired by a Justice of the Peace**

The decisions of the council chaired by the justice of the peace may appeal to the judge of first instance:

1.
  1. Any of its members who disagreed with the majority when the agreement was voted.
  2. The guardian or curator.
  3. Any relative of the minor.
  4. Anyone else interested in the decision.

The term to appeal is five days, except as provided in article 650.

#### **Article 649.- Appeal of resolutions of the Council chaired by a Juvenile judge**

From the resolutions of the council chaired by the juvenile judge, the persons indicated in article 648 may appeal to the Civil Chamber of the Superior Court, within the same period and with the same exception.

#### **Article 650.- Challenge of Council resolutions**

The resolutions in which the family council declares the incapacity of the guardians or curators, agrees their removal, or rejects their excuses, may be challenged, before the judge or the Civil Chamber of the Superior Court, where appropriate, within the term of fifteen days.

#### **Article 651.- Joint and several liability of the members of the Board**

The members of the council are jointly and severally liable for damages that, through fraud or fault, the subject to guardianship or curatorship suffers, unless they have disagreed with the agreement that caused them.

#### **Article 652.- Minutes of the Board sessions**

Minutes of the council sessions will be issued in the court's family council book and in a special book kept by the next of kin. In both books all the attending members will sign. If any of them cannot or do not want to sign the minutes, this fact will be recorded.

#### **Article 653.- Sanction to Justice of the Peace for breach of duties**

Due to the lack, impediment or omission of the justice of the peace in all matters relating to the attributions that correspond to him with respect to the family council, any of the relatives of the minor, the incapacitated elder or the absent one, can ask the judge of first instance that the same perform those functions or designate the justice of the peace to do so.

The judge, without any other procedure than the report of the justice of the peace, will immediately remove any inconvenience and will impose on him, according to the circumstances, a fine equivalent to no more than thirty percent of the monthly minimum wage.

The removal of inconveniences and imposition of a fine correspond to the Civil Chamber of the Superior Court in the case of the juvenile judge.

In both cases, the fine does not exempt the negligent judge from functional responsibility.

#### **Article 654.- Special powers of the Judge and Civil Chamber**

It also corresponds to the judge of first instance or, where appropriate, to the Civil Chamber of the Superior Court, to dictate in an emergency situation, the measures that favor the person or interests of the minors, incapable or absent majors, when there is delay in the formation of the council or obstacles that prevent its meeting or that hinder its deliberations.

#### **Article 655.- Competent judges**

In the capitals of provinces where there is no legal justice of the peace, the judges of first instance shall exercise the guardianship powers to which this Code refers.

#### **Article 656.- Appeal**

The decisions of the justices of the peace may be appealed to the judge of first instance and those of the juvenile judges to the Civil Chamber of the Superior Court.

#### **Article 657.- End of the position of member of the Family Council**

Board member office terminates by death, bankruptcy, or removal.

The position also ends due to a founded resignation due to a legal impediment to his performance.

The causes that give rise to the removal of the guardians are applicable to the members of the family council.

#### **Article 658.- Cessation of the Family Council**

The family council ceases in the same cases in which the guardianship or conservatorship ends.

#### **Article 659.- Judicial Dissolution of the Family Council**

The judge must dissolve the council when there is not the number of members necessary for its operation.

### **Chapter Four: Supports and Safeguards**

#### **Article 659-A.- Access to support and safeguards**

The person of legal age can freely and voluntarily access the supports and safeguards that they consider pertinent to contribute to their ability to exercise.

#### **Article 659-B.- Definition of support**

Supports are forms of assistance freely chosen by a person of legal age to facilitate the exercise of their rights, including support in communication, in the understanding of legal acts and their consequences, and the manifestation and interpretation of the will of who requires support.

The support does not have powers of representation except in cases where this is expressly established by decision of the person in need of support or the judge in the case of article 659-E.

When the support requires interpreting the will of the person to whom it assists, the criterion of the best interpretation of the will is applied, considering the person's life trajectory, the previous manifestations of will in similar contexts, the information that people have of confidence of the

person assisted, the consideration of their preferences and any other pertinent consideration for the specific case.

#### **Article 659-C.- Determination of support**

The person requesting the supports determines their form, identity, scope, duration and amount of supports. The supports can fall on one or more natural persons, public institutions or non-profit legal entities, both specialized in the matter and duly registered.

#### **Article 659-D.- Designation of support**

The person of legal age who requires support for the exercise of their legal capacity can appoint it before a notary or a competent judge.

#### **Article 659-E.- Exception to the appointment of support by judge**

The judge may determine, exceptionally, the necessary support for people with disabilities who cannot express their will and for those with restricted capacity to exercise, in accordance with paragraph 9 of article 44. This measure is justified, after having made efforts real, considerable and pertinent to obtain a manifestation of the will of the person, and of having provided accessibility measures and reasonable adjustments, and when the designation of supports is necessary for the exercise and protection of their rights.

The judge determines the person or persons of support taking into account the relationship of coexistence, trust, friendship, care or kinship that exists between them and the person who requires support. It also sets the term, scope and responsibilities of the support. In all cases, the judge must carry out the pertinent procedures to obtain the best possible interpretation of the will and preferences of the person, and attend to her life trajectory. People convicted of family violence or people convicted of sexual violence cannot be designated as supports.

The judicial process for determining support is exceptionally initiated by any person with legal capacity.

#### **Article 659 F.- Designation of future support**

Any person over 18 years of age can designate before a notary the necessary support (s) in anticipation of requiring assistance in the future for the exercise of their legal capacity. Likewise, the person may decide on which persons or institutions such designation should not fall, as well as the form, scope, duration and guidelines of the support to be received. The document must state the time or circumstances in which your designation of future support is effective.

### **Article 659-G.- Safeguards for the adequate performance of the supports**

Safeguards are measures to guarantee respect for the rights, wishes and preferences of the person receiving support, prevent abuse and undue influence by the person providing such support; as well as avoiding the affectation or putting at risk the rights of the people assisted.

The person requesting the support or the intervening judge in the case of article 659-E establish the safeguards they deem appropriate for the specific case, indicating at least the deadlines for the review of the support.

The judge conducts all the hearings and proceedings necessary to determine whether the support person is acting in accordance with his mandate and the will and preferences of the person.

### **Article 659-H- Exemption from the management guarantee**

The person or persons who provide the support are exempt from the obligation to guarantee its management, except as provided in article 426 .

## **BOOK IV: SUCCESSION LAW**

### **Section one: Succession in general**

#### **Title I : Succession transmission**

#### **Article 660.- Transfer of succession of full right**

From the moment of the death of a person, the assets, rights and obligations that constitute the inheritance are transmitted to their successors.

#### **Article 661.- Liability intra vires hereditatis**

The heir is liable for the debts and charges of the inheritance only to the extent of its assets. Proof of excess is incumbent on the heir, except when there is a judicial inventory.

#### **Article 662.- Responsibility ultra vires hereditatis**

Loses the benefit granted in article 661 the heir who:

1.

1. Delinquently conceals hereditary assets.

2. Simulates debts or disposes of the assets left by the deceased, to the detriment of the rights of the creditors of the succession.

### **Article 663.- Competent judge in succession matters**

It is the responsibility of the judge of the place where the deceased had his last domicile in the country, to know of the non-contentious procedures and of the trials related to the succession.

## **Title II : Petition for inheritance**

### **Article 664.- Inheritance petition action**

The right to petition for inheritance corresponds to the heir who does not possess the assets that he considers to belong to him, and is directed against whoever owns them in whole or in part by way of succession, to exclude him or to concur with him.

To the claim referred to in the preceding paragraph, the claim to declare the petitioner heir may be added if, having pronounced a judicial declaration of heirs, it considers that their rights have been precluded with it.

The claims to which this Article refers are imprescriptible and are processed as a process of knowledge.

### **Article 665.- Claim action for hereditary assets**

The reivindicatory action proceeds against the third party who, without good faith, acquires the hereditary assets by effect of contracts for consideration entered into by the apparent heir who came into possession of them.

In the case of registered assets, the good faith of the purchaser is presumed if, before the conclusion of the contract, the title that protected the apparent heir and the transfer of domain in his favor had been duly registered in the respective registry, and no claim or precautionary measure has been noted that affects the registered rights. In all other cases, the true heir has the right to claim the hereditary asset against whoever owns it for free or without title.

### **Article 666.- Remuneration and compensation for the alienation of hereditary assets**

The possessor in good faith who had alienated a hereditary asset is obliged to restore its price to the heir and if it is owed, the right to collect it will be transferred to the latter. In all cases, the possessor in bad faith is obliged to compensate the heir for the value of the property and its fruits and to compensate him for the damage caused to him.

### **Title III: Indignity**

#### **Article 667.- Exclusion of the succession due to indignity**

They are excluded from the succession of a certain person, due to indignity, as heirs or legatees:

1.

1. The perpetrators and accomplices of intentional homicide or its attempt, committed against the life of the deceased, their ascendants, descendants or spouse. This cause of indignity does not disappear by the pardon or by the prescription of the penalty.
2. Those who have been convicted of a fraudulent crime committed to the detriment of the deceased or any of the persons referred to in the preceding paragraph.
3. Those who have slanderously denounced the offender for a crime which the law punishes with imprisonment.
4. Those who have used fraud or violence to prevent the deceased from granting a will or to force him to do so, or to totally or partially revoke the one granted.
5. Those who destroy, hide, falsify or alter the will of the person whose succession is involved and who, knowingly, make use of a forged will.
6. Those who have been punished with a final sentence in a process of family violence to the detriment of the offender.
7. It is unworthy to succeed the child, the parent who had not voluntarily recognized him during the minority of age or who has not provided him with food and assistance according to his economic possibilities, even when he has reached the age of majority, if he were unable to obtain his own financial resources. The relative with a hereditary vocation or the spouse who has not provided assistance and food is also unworthy of succeeding the deceased when by law he was obliged to do so and had been raised as such in the judicial process .

#### **Article 668.- Exclusion of the unworthy by sentence**

The exclusion due to the unworthiness of the heir or legatee must be declared by sentence, in a lawsuit that can be brought against the unworthy person by calls to succeed him or her. The action prescribes one year after the unworthy person came into possession of the inheritance or legacy.

#### **Article 669.- Disinheritance for indignity and forgiveness of the unworthy**

The deceased may disinherit his forced heir out of indignity according to the rules of disinheritance and can also forgive the unworthy person in accordance with those rules.

### **Article 670.- Personal nature of indignity**

Unworthiness is personal. The inheritance rights that the unworthy heir loses pass to his descendants, who inherit them by proxy. The unworthy person does not have the right to usufruct or to the administration of the assets that his minor descendants receive for this reason.

### **Article 671.- Effects of the declaration of indignity**

Once the exclusion of the unworthy person has been declared, the latter is obliged to restore the hereditary assets to the estate and to reinstate the fruits. If he had alienated the hereditary assets, the validity of the rights of the purchaser shall be governed by article 665 and the compensation to which he is bound by the second part of article 666.

## **Title IV : Acceptance and resignation of the inheritance**

### **Article 672.- Ways to accept the inheritance**

Express acceptance can be recorded in a public or private instrument. There is tacit acceptance if the heir comes into possession of the inheritance or performs other acts that undoubtedly demonstrate his willingness to accept.

### **Article 673.- Presumption of acceptance of inheritance**

The inheritance is presumed accepted when the period of three months has elapsed, if the heir is in the territory of the Republic, or six, if he is abroad, and he has not renounced it. These periods are not interrupted for any reason.

### **Article 674.- Waiver of inheritance and legacy**

Inheritances and legacies can be renounced by those who have the free disposal of their assets.

### **Article 675.- Formality of resignation**

The resignation must be made in a public deed or in a document granted before the judge who is responsible for hearing the succession, under penalty of nullity. The minutes will be compulsorily formalized.

### **Article 676.- Challenge of the resignation by the creditor**

If the resignation causes damage to the creditors of the renouncer, they can challenge it within three months of having knowledge of it, so that it is declared without effect in the part in which it damages

their rights. The resolution declaring the claim founded will provide, depending on the nature of the assets, their judicial administration or their sale at public auction, for the payment of the debts of the renouncer. The remainder, if any, is transferred to the heirs favored by the resignation.

The challenge request is processed as a summary process.

#### **Article 677.- Character of acceptance and resignation**

Acceptance and renunciation of the inheritance cannot be partial, conditional, or at term. Both are irrevocable and their effects go back to the moment of the opening of the succession.

#### **Article 678.- Future inheritance**

There is no acceptance or waiver of future inheritance.

#### **Article 679.- Transferability of the right to accept or renounce the inheritance**

The right to accept or renounce the inheritance is transmitted to the heirs. In this case, the term of article 673 runs from the date of death of the first call.

#### **Article 680.- Acts that do not matter acceptance or prevent resignation**

The acts of provisional administration and conservation of the assets of the inheritance practiced by the heir while the term of article 673 has not expired, do not import acceptance or prevent the resignation.

### **Title V: Representation**

#### **Article 681.- Heirs by representation**

By the succession representation the descendants have the right to enter the place and in the degree of their ascendant, to receive the inheritance that would correspond to him if he lived, or that which he had renounced or lost due to indignity or disinheritance.

#### **Article 682.- Representation in a straight line**

In the straight descending line the representation is unlimited in favor of the descendants of the children, without any distinction.

#### **Article 683.- Collateral online representation**

In the collateral line there is only representation so that when inheriting a sibling, the children of pre-deceased siblings who have the right to represent him or her in the cases provided for in article 681 concur with the survivors.

#### **Article 684.- Effects of the succession representation**

Those who attend the inheritance by succession representation, receive by lineage what would have corresponded to the heir whom they represent.

#### **Article 685.- Representation in legal and testamentary succession**

In legal succession, representation is applied in the cases mentioned in articles 681 to 684. In testamentary succession, it governs with equal amplitude in the descending straight line, and in collateral article 683 is applied, unless otherwise provided by the testator .

## **Second Section : Testamentary Succession**

### **Title I: General provisions**

#### **Article 686.- Succession by testament**

By means of the will, a person can dispose of their assets, totally or partially, after their death, and order their own succession within the limits of the law and with the formalities that it indicates.

The non-patrimonial provisions contained in the will are valid, although the act is limited to them.

#### **Article 687.- Unable to grant a will.**

They cannot make a will:

1.
  1. Minors, except in the case provided for in article 46.
  2. Those included in article 44 numerals 6, 7 and 9.
  3. Repealed.

#### **Article 688.- Nullity of testamentary disposition**

The testamentary dispositions in favor of the notary before whom the will is executed, his spouse or relatives within the fourth degree of consanguinity and second degree of affinity, as well as in favor of the testamentary witnesses, are null and void.

### **Article 689.- Application of rules on modalities of legal act**

The general rules on the modalities of legal acts, apply to testamentary provisions; and the conditions and charges that are contrary to the mandatory norms of the law are considered not established.

### **Article 690.- Personal and voluntary nature of the testamentary act**

The testamentary provisions must be the direct expression of the will of the testator, who cannot give power to another to testify, nor leave its provisions to the discretion of a third party.

## **Title II: Formalities of wills**

### **Chapter One: Common Provisions**

#### **Article 691.- Types of will**

The ordinary wills are: the one granted in public deed, the closed one and the holograph. The special wills, allowed only in the circumstances provided for in this title, are military and maritime.

#### **Article 692.- Formality of the Illiterate Will**

Illiterates can only testify in public deed, with the additional formalities indicated in article 697.

#### **Article 693 and Article 694.- Repealed**

#### **Article 695.- Testamentary formalities**

The formalities of every will are the written form, the date of its execution, the testator's name and his signature, except as provided in article 697. The specific formalities of each type of will cannot be applied to those of another.

### **Chapter two: Testament in public deed**

#### **Article 696.- Formalities of the will by public deed**

The essential formalities of the will granted in public deed are:

1.

1. That the testator, the notary and two skillful witnesses are gathered in a single act, from the beginning to the end.

2. That the testator express his will himself or, in the case of a person with a disability, with the granting of reasonable adjustments or support for the manifestation of will, if required. If required, dictating your will to the notary or personally giving him the provisions it must contain in writing.
3. That the notary write the will in his own hand, in his registry of public deeds.
4. That each one of the pages of the will be signed by the testator, the witnesses and the notary.
5. That the will be read clearly and distinctly by the notary, the testator or the testamentary witness that he chooses.
6. That, during the reading, at the end of each clause, it is verified if the content corresponds to the expression of their will. If the testator is a person with a disability, he can express his assent or observations through reasonable accommodation or support if required.
7. That the notary record the indications that the testator may make after the reading, and save any errors that may have been incurred.
8. That the testator, the witnesses and the notary sign the will in the same act.
9. That, in cases where the support of the person with a disability is a beneficiary, the consent of the judge is required.

#### **Article 697.- Testamentary witness at request**

If the testator is illiterate, the will must be read twice, once by the notary and once by the testamentary witness designated by the testator. If the testator does not know or cannot sign, he will do so through the use of the fingerprint, all of which will be mentioned in the will. In case he does not have a fingerprint, the notary must make use of any other means of verification that allows proving the identity of the testator.

#### **Article 698.- Suspension of the testament faction**

If the faction of the will is suspended for any reason, this circumstance will be recorded, signing the testator, if he can do so, the witnesses and the notary. To continue the will, the testator, the same notary and the witnesses, if they can be had, or others in a different case, must be reunited again.

### **Chapter Three: Closed Testament**

#### **Article 699.- Formality of the Closed Will**

The essential formalities of the closed will are:

- 1.

1. That the document in which it has been extended is signed on each of its pages by the testator, it being enough that he do so at the end if it was handwritten by him, and that it be placed inside a duly closed envelope or a closed cover, of so that the will cannot be extracted without breaking or altering the cover.  
In the case of a will granted by a person with a visual impairment disability, it may be granted in Braille or using some other means or alternative format of communication, each page must have the impression of his fingerprint and his signature, placed inside a on the conditions detailed in the first paragraph.
2. That the testator personally deliver the aforementioned closed document to the notary, before two capable witnesses, stating that it contains his will. If the testator is mute or unable to speak, this statement will be made in writing on the cover.
3. That the notary write on the cover of the will an act stating its execution by the testator and its receipt by the notary, which will be signed by the testator, the witnesses and the notary, who will transcribe it in their registry, signing it by the same persons.
4. That the fulfillment of the formalities indicated in paragraphs 2 and 3 be carried out with the testator, the witnesses and the notary meeting in a single act, who will give the testator a certified copy of the act.

#### **Article 700.- Revocation of the closed will**

The closed will will remain in the possession of the notary. The testator can request, at any time, the restitution of this testament, which the notary will do before two witnesses, issuing in his registry an act stating the delivery, which will be signed by the testator, the witnesses and the notary. This restitution produces the revocation of the closed will, although the internal document can be used as a holographic will if it meets the requirements indicated in the first part of article 707.

#### **Article 701.- Custody and judicial presentation of a closed will**

The notary in whose custody the closed will remains, will keep it with the necessary assurances until, after the death of the testator, the competent judge, at the request of the interested party who proves the death of the testator and the existence of the will, orders the notary to presentation of the latter. The decision of the competent judge will be made by summoning the presumed heirs or legatees.

#### **Article 702.- Opening of a closed will**

Once the closed will has been presented, the judge, summoning the persons indicated in article 701, will proceed in accordance with the Code of Civil Procedures.

#### **Article 703.- Modification of will closed by holographer**

If the judge finds that the cover is deteriorated, so that it has been possible to change the statement that contains the will, he will provide that it is valid as a holograph, if it meets the requirements indicated in the first part of article 707.

#### **Chapter Four: Impediments of the notary and the testamentary witnesses**

##### **Article 704.- Impediments of the notary**

The notary who is a relative of the testator within the fourth degree of consanguinity or second degree of affinity is prevented from intervening in the execution of the will by public deed or from authorizing the closing.

##### **Article 705.- Persons prevented from being testamentary witnesses**

They are prevented from being testamentary witnesses:

- 1.- Those who are unable to grant a will.
- 2.- Repealed
- 3.- The illiterate.
- 4.- The heirs and legatees in the will in which they are instituted and their spouses, ascendants, descendants and siblings.
- 5.- Those who have with the testator the family relationship ties indicated in the previous paragraph.
- 6.- The testator's creditors, when they cannot justify their credit except with the testamentary declaration.
- 7.- The spouse and relatives of the notary, within the fourth degree of consanguinity or second degree of affinity, and the dependents of the notary or other notaries.
- 8.- The spouses in the same will.

##### **Article 706.- Validity of the will granted with an impeded witness**

The testamentary witness whose impediment was not noticeable at the time of his intervention, he is considered skilled if the common opinion had considered it.

#### **Chapter Five: Holographic Testament**

### **Article 707.- Holographic will. Formalities**

They are essential formalities of the holographic will, that it is fully written, dated and signed by the testator himself. If granted by a person with a visual impairment disability, the provisions of the second paragraph of numeral 1 of article 699 must be complied with.

In order to produce effects, it must be formalized, after judicial verification, within a maximum period of one year from the death of the testator.

### **Article 708.- Presentation of holographic will before a Judge**

The person who keeps a holographic will in his possession is obliged to present it to the competent judge within thirty days of having knowledge of the death of the testator, under responsibility for the damage caused by its delay, and notwithstanding the provisions of the final part of article 707.

### **Article 709.- Judicial opening of holographic will**

Presented the holographic will with the certified copy of the death certificate of the testator or judicial declaration of presumed death, the judge, summoning the presumed heirs, will proceed to the opening if it is closed, will put his entire signature and the stamp of the court in each of its pages and will provide what is necessary for verifying the authenticity of the letter and signature of the testator through the collation, in accordance with the provisions of the Civil Procedure Code that were applicable.

Only in case of missing elements for the comparison, the judge can order that the verification be made by three witnesses who know the letter and signature of the testator.

In the case of a will granted in Braille or another alternative means or format of communication, the verification will be made on the signature and fingerprint of the testator.

### **Article 710.- Official translation of the will.**

If the will was written in a language other than Spanish, the judge will appoint an official translator. In addition, if the testator is a foreigner, the translation will be made with a summons from the consul of the country of his nationality, if any. Likewise, the judge may appoint a translator if the will had been granted in braille or another means or alternative communication format. The version will be added to the original text, signed by the translator with his signature legalized by the court clerk. The judge will also authenticate this document with his full signature and with the stamp of the court.

This provision is also applicable in the verification of the closed will.

## **Article 711.- Protocolization of the file**

Once the authenticity of the will and the compliance with its formal requirements have been verified, the judge will order the file to be formalized.

## **Chapter Six: Military Testament**

### **Article 712.- Military will**

Members of the Armed Forces and Police Forces who, in time of war, are inside or outside the country, quartered or participating in war operations can grant a military will; the people who serve or follow these forces; and the prisoners of war who are in the power of the same.

The prisoners who are in the power of the enemy have the same right, in accordance with the International Conventions.

### **Article 713.- Persons before whom a military will can be granted**

The military will can be executed before an officer, or before the head of the detachment, position or command to which the testator belongs, even if said chief does not have the class of officer, or before the doctor or chaplain who assists him, if the testator is injured or ill, and in the presence of two witnesses.

They are formalities of this testament that is in writing and that is signed by the testator, by the person before whom it is granted and by the witnesses.

### **Article 714.- Processing of the military will**

The military will shall be sent, as soon as possible and through regular channels, to the respective General Headquarters, where the military class or command of the person before whom it has been granted shall be recorded. Then it will be sent to the corresponding Ministry, which will send it to the judge of first instance of the capital of the province where the testator had his last domicile.

If in the garments of some of the people referred to in article 712 and who had died, a holographic will is found, the same procedure will be given.

### **Article 715.- Expiration of the military will**

The military will expires three months after the testator stops being in the field and reaches a place in the national territory where it is possible to grant a will in the ordinary ways.

The expiration period is computed from the date of the official document authorizing the return of the testator, without prejudice to the term of the distance.

If the testator dies before the deadline set for expiration, his presumed heirs or legatees will ask the judge in whose possession the testament is, its judicial verification and notarization, in accordance with the provisions of articles 707, second paragraph, to 711 .

If the will granted in the circumstances referred to in article 712 had the requirements of the holographic will, it expires one year after the death of the testator.

## **Chapter Seven: Maritime Testament**

### **Article 716.- People who can grant a maritime will**

They can grant a will, during water navigation, the heads, officers, crew and any other person who is embarked on a Peruvian warship.

Officers, crew members, passengers and any other person who is on board a Peruvian-flagged merchant ship, cruise or coastal, or who is engaged in industrial tasks or scientific purposes, have the same right during navigation.

### **Article 717.- Formalities of the maritime will**

The maritime testament shall be executed before the person in command of the ship or before the officer to whom the latter delegates the function and in the presence of two witnesses. The testament of the commander of the warship or the captain of the merchant ship will be granted before whoever follows him in command.

They are formalities of this testament that is in writing and that is signed by the testator, by the person before whom it is granted and by the witnesses. A duplicate will also be issued with the same signatures as the original.

The will will be noted in the logbook, which will be recorded in both copies with the approval of the person in command of the ship, and will be kept with his documents.

### **Article 718.- Protection of the maritime will**

If, before returning to Peru, the ship arrives at a foreign port where there is a consular agent, the commander or captain of the ship will deliver, under charge, one of the copies of the will. The aforementioned agent will forward it to the Ministry of the Navy, if the will had been granted on a

warship, or to the General Directorate of Captaincies, if it was granted on a merchant ship, for the purposes referred to in article 719.

#### **Article 719.- Processing of the maritime will**

Upon the return of the ship to Peru, the two copies or the remaining copy in the case of article 718, will be delivered to the Ministry of the Navy, if the ship is of war; or to the Captaincy of the Port of destination for referral to the General Directorate of Captaincy, if the ship is a merchant ship. In either case, the respective authority will send a copy to the judge of first instance of the province where the testator had his last domicile and will file the other. If the testator is a foreigner and not domiciled in Peru, a copy will be sent to the Ministry of Foreign Relations.

In the event of the death of the testator during the trip, a certified copy of the act proving the death will be added to each copy. In the same case, if a holographic will is found among the garments of the deceased, it will be kept with the papers of the ship, adding a certified copy of the act that proves the death and the same course indicated in the previous paragraph will be given.

#### **Article 720.- Expiration of the maritime will**

The maritime will expires three months after the testator has finally disembarked. If he dies before the expiration of this period, his presumed heirs or legatees, will ask the judge whose power is found, his judicial verification and notarization, in accordance with the provisions of articles 707, second paragraph, to 711.

If the will granted to the circumstances referred to in article 716 had the requirements of the holographic will, it expires one year after the testator's death.

### **Chapter eight: Wills granted abroad**

#### **Article 721.- Formality of the Will granted abroad**

Peruvians who reside or are abroad may grant a will before the consular agent of Peru, by public deed or closed, according to the provisions of articles 696 to 703, respectively. In these cases, he will fulfill the function of a notary public.

You can also grant a holographic will, which will be valid in Peru, although the law of the respective country does not admit this kind of will.

#### **Article 722.- Validity of a will granted abroad**

Wills granted in another country by Peruvians or foreigners are valid in Peru in terms of their form, before the officials authorized to do so and according to the formalities established by the law of the respective country, except for joint and verbal wills and testamentary modalities incompatible with Peruvian law.

### **Title III: The legitimate and the available portion**

#### **Article 723.- Notion of legitimate**

The legitimate constitutes the part of the inheritance that the testator cannot freely dispose of when he has forced heirs.

#### **Article 724.- Forced heirs**

The children and other descendants, parents and other ascendants, the spouse or, where appropriate, the surviving member of the common-law union are forced heirs.

#### **Article 725.- Third party freely available**

Anyone who has children or other descendants, or a spouse, can freely dispose of up to a third of their assets.

#### **Article 726.- Free disposal of half of the assets**

Those who have only parents or other ancestors can freely dispose of up to half of their assets.

#### **Article 727.- Free disposal of the totality of the goods**

He who does not have a spouse or relatives of those indicated in articles 725 and 726, has the free disposal of all his assets.

#### **Article 728.- Tax on the available portion**

If the testator were obliged to pay alimony in accordance with article 415, the available portion will be taxed to the extent necessary to fulfill it.

#### **Article 729.- Legitimate of forced heir**

The legitimate of each of the forced heirs is a quota equal to that which corresponds to them in the intestate succession, whose provisions also govern their concurrence, participation or exclusion.

### **Article 730.- Legitimate of the spouse**

The legitimacy of the spouse is independent of the right that corresponds to him for the concept of community property from the liquidation of the marriage property.

### **Article 731.- Right of residence for life of the surviving spouse**

When the surviving spouse concurs with other heirs and their legal and community rights do not reach the necessary value to be awarded the house-room in which the conjugal home existed, said spouse may choose the right to live in for life and free on the referred house. This right falls on the difference between the value of the property and that of its rights as legitimate and community property.

The difference in value will affect the quota freely available to the deceased and, if necessary, that reserved to the other heirs in proportion to their hereditary rights.

Where appropriate, the other assets are divided among the other heirs, excluding the surviving spouse.

### **Article 732.- Right of usufruct of the surviving spouse**

If in the case of article 731 the surviving spouse is not in an economic situation that allows him to support the expenses of the house-room, he may, with judicial authorization, lease it, collect the rent for himself and exercise over the difference between the value of the property and the value of its rights as legitimate and community property the other rights inherent to the usufructuary. If the lease is terminated, the surviving spouse may reacquire at his / her own will the right of habitation referred to in article 731.

As long as it is affected by the rights of habitation or usufruct, where appropriate, the house-habitation will have the legal status of family patrimony.

If the surviving spouse contracts a new marriage, lives in concubinage or dies, the rights that are granted in this article and in article 731 are extinguished, leaving the partition of the property expedited. Such rights are also extinguished when the surviving spouse renounces them.

### **Article 733.- Intangibility of the legitimate**

The testator may not deprive his forced heirs of the legitimate heirs, except in the cases expressly determined by law, nor impose any lien, modality, or substitution on it. Nor can you deprive your spouse of the rights granted by articles 731 and 732, except in those cases.

## **Title IV: Institution and replacement of heirs and legatees**

### **Article 734.- Institution of heir or legatee**

The institution of heir or legatee must rest with a certain person, designated in an indubitable way by the testator, except as provided in article 763, and be made only in a will.

### **Article 735.- Succession by universal and particular title**

The institution of heir is universal and includes all the assets, rights and obligations that constitute the inheritance or a part of them. The institution of legatee is a private title and is limited to certain assets, except as provided in article 756. The error of the testator in the name of one or the other does not modify the nature of the provision.

### **Article 736.- Form of institution of forced heir**

The institution of forced heir will be done in a simple and absolute way. The modalities imposed by the testator shall be deemed not established.

### **Article 737.- Institution of voluntary heir**

The testator who does not have forced heirs, can institute one or more voluntary heirs and indicate the part of the inheritance assigned to each one. If you don't determine it, they will happen in equal parts.

### **Article 738.- Flow available to legatees**

The testator can institute legatees, with the part available if he has forced heirs, and not having them, even with all of his assets and indicate those assigned to each of the legatees.

The testator can impose both voluntary heirs and legatees, conditions and charges that are not contrary to the law, good customs and the free exercise of the fundamental rights of the person.

### **Article 739.- Remnant corresponding to legal heirs**

If the testator who lacks forced heirs has not instituted voluntary heirs and disposes of only part of his assets in legacies, the remainder that may exist corresponds to his legal heirs.

### **Article 740.- Equality of conditions and positions between substitutes and legatees**

The testator may designate the voluntary heirs and legatees as substitutes in the event that the institute dies before the testator, or renounces the inheritance or legacy or loses them through indignity.

#### **Article 741.- Equality of conditions and positions between substitutes and instituted**

Voluntary heirs and substitute legatees are subject to the same conditions and charges as the institute, unless the testator provides otherwise, or the conditions and charges imposed are by their nature inherent to the person of the institute.

### **Title V: Disinheritance**

#### **Article 742.- Notion of disinheritance**

By disinheritance, the testator can deprive the forced heir who has incurred in any of the causes provided by law of the legitimate.

#### **Article 743.- Obligation to express grounds for disinheritance**

The grounds for disinheritance must be clearly stated in the will. Disinheritance arranged without expression of cause, or for cause not indicated in the law, or subject to condition, is not valid. The one founded on false cause is voidable.

#### **Article 744.- Causes of disinheritance of descendants**

The following are grounds for disinheritance of descendants:

- 1.- Having mistreated or seriously and repeatedly injured the ascendant or his spouse, if he is also the ascendant of the offender.
- 2.- Having denied the food without just cause or abandoned the ascendant, finding himself seriously ill or unable to fend for himself.
- 3.- To have deprived him of his freedom without justification.
- 4.- Leading the descendant a dishonorable or immoral life.

#### **Article 745.- Causes of disinheritance of ancestors**

The following are grounds for disinheritance of the ancestors:

1.- Having unjustifiably denied food to their descendants.

2.- The ascendant has incurred in any of the causes for which parental authority is lost or have been deprived of it.

#### **Article 746.- Causes of disinheritance of the spouse**

The causes of disinheritance of the spouse are those provided for in article 333, paragraphs 1 to 6.

#### **Article 747.- Disinheritance due to indignity**

The testator may base the disinheritance on the specific causes thereof, listed in articles 744 to 746, and on those of indignity indicated in article 667.

#### **Article 748.- Persons exempt from disinheritance**

The incapable minors cannot be disinherited, nor the elderly who for any reason are deprived of discernment. These people also cannot be excluded from inheritance for indignity.

#### **Article 749.- Effects of disinheritance**

The effects of the disinheritance refer to the legitimate and do not extend to the donations and legacies granted to the heir, which the deceased can revoke, nor to the maintenance due by law, nor to other rights that correspond to the heir on the occasion of death of the testator.

#### **Article 750.- Right to contradict the disinheritance**

The right to contradict the disinheritance corresponds to the disinherited or his successors and is extinguished after two years, counted from the death of the testator or from the moment the disinherited has knowledge of the content of the will.

#### **Article 751.- Action of the deceased to justify disinheritance**

The disinherited may file a lawsuit against the disinherited to justify his decision. The claim is processed as an abbreviated process. The sentence that is pronounced prevents contradicting the disinheritance.

#### **Article 752.- Proof of disinheritance by heirs**

In case the testator has not filed a lawsuit to justify the disinheritance, it is up to his heirs to prove the cause, if the disinherited or his successors contradict it.

### **Article 753.- Revocation of the disinheritance**

Disinheritance is revoked by establishing the disinherited heir or by declaration expressed in the will or in public deed. In this case, the previous judgment followed to justify the disinheritance has no effect.

### **Article 754.- Renewal of disinheritance**

Once the disinheritance is revoked, it cannot be renewed except by subsequent events.

### **Article 755.- Heirs representing the disinherited**

The descendants of the disinherited inherit the legitimate representation that would correspond to him if he had not been excluded. The disinherited person does not have the right to usufruct or to the administration of the assets acquired by his descendants who are minors or incapable.

## **Title VI : Legacies**

### **Article 756.- Power to dispose by legacy**

The testator may dispose as an act of liberality and by way of legacy, one or more of his assets, or a part of them, within his power of free disposition.

### **Article 757.- Invalidity of the legacy**

The legacy of a particular asset is not valid, if it is not in the domain of the testator at the time of his death.

### **Article 758.- Legacy of indeterminate good**

The legacy of an indeterminate personal property is valid, even if it is not in the inheritance. The choice, unless otherwise provided by the testator, corresponds to the person in charge of paying the legacy, who will comply with giving an asset that is not of inferior or superior quality, having to take into consideration the available part of the inheritance and the needs of the legatee.

### **Article 759.- Legacy of partially foreign property**

The legacy of an asset that belongs to the testator only in part or to which the testator has another right, is valid as regards the part or the right that corresponds to the testator.

### **Article 760.- Legacy of taxed asset**

If the testator bequeaths an asset that is encumbered by real security rights, the asset will pass to the legatee with the liens it may have. The amortization service and interest on the debt will be borne by the testator until the day of his death.

#### **Article 761.- Legacy of property subject to use, usufruct and habitation**

If the legacy asset is subject to usufruct, use or habitation in favor of a third person, the legatee will respect these rights until they expire.

#### **Article 762.- Legacy of credit and debt forgiveness**

The legacy of a credit has effect only as regards the part of it that subsists at the time of the death of the testator. The heir is obliged to deliver to the legatee the title of the credit that has been bequeathed to him. The legacy of discharge of a debt includes what is owed on the date of opening of the succession.

#### **Article 763.- Legacy for social, cultural and religious purposes**

The legacies made in favor of the poor or for cultural or religious purposes are valid, which will be delivered by the heir to whom the testator indicates. In the absence of indication, the first ones will be delivered to the Public Charity; the latter to the National Institute of Culture or to the agencies that take their place in one case or another; and third parties, to the competent authority of the religion professed by the testator.

#### **Article 764.- Legacy of property**

If the legacy asset is a property, the land and new constructions that the testator has added after the will are not part of the legacy, except for the improvements made to the property, whatever their type.

#### **Article 765.- Legacy in money**

The legacy in money must be paid in this kind, even if it is not in the inheritance.

#### **Article 766.- Food legacy**

The legacy of alimony, if the testator did not determine its amount and form of payment, is fulfilled by assigning the legatee a pension that will be governed by the provisions of articles 472 to 487.

#### **Article 767.- Remunerative legacy**

The remunerative legacy is considered as payment, in the part in which it reasonably corresponds to the service provided by the beneficiary of the testator and as an act of liberality regarding the excess.

#### **Article 768.- Legacy subject to modality**

The legatee does not acquire the subordinate legacy on a suspensive condition or at the expiration of a term, as long as the condition is not met or the term expires. Meanwhile you can exercise the precautionary measures of your right. The legacy with charge, is governed by the provisions for donations subject to this modality.

#### **Article 769.- Legacy of a determined asset**

In the legacy of a determined asset not subject to a condition or term, the legatee acquires it in the state in which it is found at the death of the testator. From that moment the fruits of the legacy belong to him and he assumes the risk of its loss or deterioration, except for fraud or fault of whoever has it in his power.

#### **Article 770.- Reduction of the legacy**

If the value of the legacies exceeds the available part of the inheritance, they are reduced pro rata, unless the testator has established the order in which they must be paid.

The legacy made in favor of any of the joint heirs is not subject to reduction, unless the inheritance is insufficient to pay the debts.

#### **Article 771.- Fourth falcidia**

If the testator who has the free disposition of his assets establishes voluntary and legatees heirs, the part that corresponds to them will not be less than a quarter of the inheritance, for which purpose the legacies will be reduced pro rata, if necessary.

#### **Article 772.- Expiration of the legacy**

Legacy expires:

1.
  1. If the legatee dies before the testator.
  2. If the legatee is divorced or legally separated from the testator because of his fault.
  3. If the testator alienates the legacy property or it perishes through no fault of the heir.

#### **Article 773.- Acceptance and resignation of the legacy**

The provision of article 677 is applicable to the legacy.

## **Title VII: Right to increase**

### **Article 774.- Right to increase between joint heirs**

If several heirs are instituted in the totality of the assets without determination of parts or in equal parts and one of them does not want or cannot receive his, it increases those of the others, except for the right of representation.

### **Article 775.- Right to increase between colleagues**

When the same good is bequeathed to several people, without determination of parts and some of them do not want or cannot receive the one that corresponds to them, it will increase the parts of the others.

### **Article 776.- Reimbursement of the legacy to the hereditary estate**

The legacy is reimbursed to the hereditary estate when it has no effect for any reason, or when the legatee cannot or does not want to receive it.

### **Article 777.- Inadmissibility of the right to accrue**

The right of accretion does not take place when the testament results in a different will of the testator.

## **Title VIII : Executives**

### **Article 778.- Appointment of executor**

The testator can entrust one or more people, who are called executors or executors of the will, to comply with his last will provisions.

### **Article 779.- Formality of the appointment**

The appointment of executor must be in a will.

### **Article 780.- Plurality of executors**

When there are several executors of the will appointed to carry out the position jointly, it is worth what they all do together or what one of them does, authorized by the others. In case of disagreement

the majority decides.

### **Article 781.- Joint and several liability of the executors**

The responsibility of the executors who jointly exercise the position is joint, unless otherwise provided by the testator.

### **Article 782.- Concurrent or successive exercise of the executor**

If the testator does not provide that the executors act jointly, nor does he attribute specific functions to each of them, they will carry out the position successively, one in the absence of the other, in the order in which they have been appointed.

### **Article 783.- Persons prevented from being executors**

The one who is incurred in articles 667, 744, 745 and 746 cannot be an executor.

### **Article 784.- Execution by legal persons**

Legal persons authorized by law or by statute can be executors.

### **Article 785.- Excuse and resignation of the executor**

The executor may excuse himself from accepting the position, but if he had accepted it, he may not resign it except for just cause, in the judgment of the judge.

### **Article 786.- Term for acceptance of the position**

As long as the executor does not accept the charge or does not excuse himself, the judge who is responsible for hearing the succession, at the request of the interested party, will indicate a reasonable period of time for acceptance, after which it will be considered rejected.

### **Article 787.- Obligations of the executor**

The executor's obligations are:

1.
  1. Attend to the burial of the corpse of the testator or to his cremation if he had so arranged, without prejudice to the provisions of article 13.
  2. Exercise judicial and extrajudicial actions for the security of hereditary assets.

3. Make a judicial inventory of the assets that constitute the inheritance, summoning the heirs, legatees and creditors of whom it has knowledge.
4. Administer the assets of the inheritance that have not been awarded by the testator, until they are delivered to the heirs or legatees, unless otherwise provided by the testator.
5. Pay the debts and charges of the inheritance, with the knowledge of the heirs.
6. Pay or deliver the legacies.
7. Sell the hereditary assets with the express authorization of the testator, or the heirs, or the judge, insofar as it is essential to pay the debts of the inheritance and the legacies.
8. Procure the division and partition of the inheritance.
9. Fulfill the special orders of the testator.
10. Sustain the validity of the will in the challenge trial that is promoted, without prejudice to the appearance that, in such case, corresponds to the heirs.

#### **Article 788.- Specific personality of the executors**

The executors are not representatives of the testamentary to sue or respond in court, but in the case of the testator's orders, the administration that corresponds to them and the case of article 787, paragraph 10.

#### **Article 789.- Personal nature of the executor**

The executor is non-delegable; but some functions can be exercised in justified cases through representatives, under the orders and responsibility of the executor.

#### **Article 790.- Possession of property by the executor**

If the testator does not establish heirs, but only legatees, the possession of the hereditary assets corresponds to the executor, until the debts of the inheritance and the legacies are paid.

#### **Article 791.- Acts of conservation of the executor**

The heirs or legatees may request the executor to adopt the necessary measures to maintain the indemnity of the hereditary assets.

#### **Article 792.- Dative executor**

If the testator has not appointed an executor or if the appointed cannot or does not want to carry out the position, their powers will be exercised by the heirs, and if they do not agree, they must ask the

judge to appoint a dative executor.

### **Article 793.- Remuneration of the executor**

The position of executor is remunerated, unless the testator provides for its gratuity.

The remuneration will not be greater than four percent of the net income.

In the absence of the determination of the remuneration by the testator, the judge will do so, who will also indicate that of the dative executor.

### **Article 794.- Rendering of the account of the executor**

Even if the testator had exempted him from this duty, within sixty days after the execution of the executor, the executor must present to the successors a written report of his management and, if applicable, the corresponding accounts, with the documents of the case or offering another means of proof. The accounts do not require the observance of special formality regarding their content, as long as there is an orderly list of income and expenses.

He will also fulfill this duty during the exercise of the position, frequently not less than six months, when ordered by the Civil Judge at the request of any successor. The request is processed as a non-contentious process.

The report and the accounts are understood to be approved if within the expiration period of sixty days after they were presented, their disapproval is not judicially requested, as a process of knowledge.

The rules contained in this article are of supplementary application to all other cases in which there is a legal or conventional duty to present income and expense accounts or management reports.

### **Article 795.- Removal of the executor**

It may be requested, as a summary process, the removal of the executor who has not started the inventory faction within ninety days of the death of the testator, or of the notarization of the will, or of his judicial appointment, whichever corresponds, or within the thirty days after being notarized for this purpose by the successors.

### **Article 796.- Cessation of the position of the executor**

The position of executor ends:

1.

1. For two years have elapsed since its acceptance, except for the longer term indicated by the testator, or granted by the judge with the agreement of the majority of the heirs.
2. For having completed its functions .
3. By resignation with judicial approval.
4. Due to legal or physical incapacity that prevents the performance of the function.
5. By judicial removal, at the request of a duly substantiated party.
6. Due to death, disappearance or declaration of absence.

### **Article 797.- Executor's obligation to comply with the will of the testator**

The executor is empowered during the exercise of his office and at any time after having exercised it, to demand that the will of the testator be fulfilled. He who resigned by resignation or having been removed from office lacks this power.

## **Title IX : Revocation, expiration and nullity of wills**

### **Chapter One : Revocation**

#### **Article 798.- Revocation of the will**

The testator has the right to revoke, at any time, his testamentary provisions. Any statement to the contrary is worthless.

#### **Article 799.- Way to revoke**

The express revocation of the will, in whole or in part, or of some of its provisions, can only be made by another will, whatever its form.

#### **Article 800.- Revival of previous testament**

If the testament that revokes a previous one is revoked in turn by a later one, the provisions of the first one revive, unless the testator expresses his contrary will.

#### **Article 801.- Partial revocation of will.**

The testament that is not totally and expressly revoked by another later, subsists in the provisions compatible with those of the latter.

#### **Article 802.- Revocation of the closed will**

The closed will is revoked if the testator removes it from the custody of the notary.

### **Article 803.- Validity of the closed will as holograph**

Both in the case provided for in article 802 and in that of its opening by the testator, the closed will is valid as a holograph if the interior sheet is kept and it meets the formalities indicated in the first part of article 707.

### **Article 804.- Revocation of holographic will**

The holographic will is revoked if the testator breaks, destroys or renders it useless in any other way.

## **Chapter Two: Expiration**

### **Article 805.- Expiration of the will.**

The expired will, regarding the institution of heir:

1.

1. If the testator leaves heirs that he did not have when he made the will and they live; or that they are conceived at the time of their death, provided they are born alive.
2. If the heir renounces the inheritance or dies before the testator without leaving succession representation, or when the heir is the spouse and the legal separation due to their own fault or divorce is declared.
3. If the heir loses the inheritance by declaration of unworthiness or disinheritance, without leaving descendants who can represent him.

### **Article 806.- Preterition of forced heir**

The preterition of one or more forced heirs, invalidates the institution of heirs as soon as the legitimate one that corresponds to the predecessors is affected. After this has been paid, the available portion belongs to those who have been improperly instituted heirs, whose legal status is that of legatees.

### **Article 807.- Reduction of testamentary dispositions**

The testamentary dispositions that undermine the legitimate of the heirs, will be reduced, at their request, in what they are excessive.

## **Chapter Three: Nullity**

**Article 808.- Nullity and voidability of will**

The will made by minors is null. It is voidable that of the other persons included in article 687.

**Article 809.- Cancellation of a will due to defects of will**

The will obtained by violence, intimidation or fraud is voidable. The testamentary provisions due to an essential error of fact or law of the testator are also voidable, when the error appears in the will and is the only reason that the testator has determined to dispose of.

**Article 810.- Nullity due to false death of heir**

When a will has been granted expressing as the cause the death of the heir established in a previous one, this will be valid and the former will be considered not granted, if the news of the death is false.

**Article 811.- Nullity due to defects in form**

The will is null and void, due to defects in form, if it violates the provisions of article 695 or, where appropriate, of articles 696, 699 and 707, except as provided in article 697.

**Article 812.- Cancellation due to defects in form**

The will is voidable for defects of form when the other formalities indicated for the type of will used by the testator have not been fulfilled. The action cannot be exercised in this case by those who voluntarily executed the will, and it expires two years from the date the heir became aware of it.

**Article 813.- Nullity and voidability of special wills**

Special wills are null and void when the written form, the signature of the testator or the person authorized to receive them, is missing. They are voidable in the case of article 812.

**Article 814.- Nullity of common will**

A will made jointly by two or more people is void.

**Third Section : Intestate Succession****Title I: General provisions****Article 815.- Cases of intestate succession**

The inheritance corresponds to the legal heirs when:

1.

1. The deceased dies without leaving a will; The one that granted has been declared totally or partially null; It has expired due to lack of judicial verification; or the disinheritance is declared invalid.
2. The will does not contain the institution of an heir, or the expiration or invalidity of the provision that establishes it has been declared.
3. The forced heir dies before the testator, renounces the inheritance or loses it through indignity or disinheritance and has no descendants.
4. The voluntary heir or the legatee dies before the testator; or because the condition established by it has not been met; or by resignation, or by having declared unworthy to these successors without designated substitutes.
5. The testator who does not have forced or voluntary heirs established in a will, has not disposed of all his assets in legacies, in which case the legal succession only works with respect to the assets that he did not dispose of.

The judicial declaration of heirs by inheritance totally or partially intestate, does not prevent the predecessor by the declaration from asserting the rights conferred by Article 664.

#### **Article 816.- Succession orders**

They are heirs of the first order, the children and other descendants; of the second order, parents and other ancestors; of the third order, the spouse or, where appropriate, the surviving member of the de facto union; of the fourth, fifth and sixth orders, respectively, the collateral relatives of the second, third and fourth degree of consanguinity.

The spouse or, where appropriate, the surviving member of the common-law union is also the heir in concurrence with the heirs of the first two orders indicated in this article.

#### **Article 817.- Succession exclusion**

Relatives of the descending straight line exclude those of the ascending one. The closest relatives in degree exclude the most remote, except for the right of representation.

### **Title II : Succession of descendants**

#### **Article 818.- Equal inheritance rights of children**

All children have equal inheritance rights with respect to their parents. This provision includes matrimonial children, extramarital children recognized voluntarily or declared by judgment, regarding the inheritance of the father or mother and their relatives, and adopted children.

#### **Article 819.- Succession by head and by lineage**

The same equality of rights governs the succession of other descendants. These inherit their ancestors by head, if they concur alone, and by lineage, when they concur with children of the deceased.

### **Title III : Succession of ancestors**

#### **Article 820.- Succession of parents**

In the absence of children and other descendants, the parents inherit in equal parts. If only one of them exists, the inheritance corresponds to this one.

#### **Article 821.- Succession of grandparents**

If there are no parents, the grandparents inherit, in the manner indicated in article 820.

### **Title IV: Succession of the spouse**

#### **Article 822.- Concurrence of the spouse with descendants**

The spouse who concurs with children or with other descendants of the deceased, inherits a part equal to that of a child.

#### **Article 823.- Usufruct option of the spouse**

In the cases of article 822, the spouse can opt for the usufruct of the third part of the inheritance, unless he has obtained the rights granted by articles 731 and 732.

#### **Article 824.- Concurrence of the spouse with ascendants**

The spouse who concurs with the parents or with other ascendants of the deceased, inherits a part equal to that of one of them.

#### **Article 825.- Exclusive succession of the spouse**

If the deceased has not left descendants or ascendants with the right to inherit, the inheritance corresponds to the surviving spouse.

#### **Article 826.- Inappropriateness of the succession of the spouse**

The succession that corresponds to the widower or widow does not apply, when one of the spouses found ill at the time of the marriage, died of that illness within the following thirty days, unless the marriage had been celebrated to regularize a de facto situation.

#### **Article 827.- Succession law of the spouse in good faith**

The nullity of the marriage because it was celebrated with a person who was prevented from contracting it does not affect the inheritance rights of the spouse who contracted it in good faith, unless the first spouse survives the deceased.

### **Title V : Succession of collateral relatives**

#### **Article 828.- Succession of collateral relatives**

If there are no descendants, no ascendants, or spouse with the right to inherit, the inheritance corresponds to collateral relatives up to the fourth degree of consanguinity inclusive, excluding those closest to the most remote, except for the right of the nephews to concur with their uncles. on behalf of their parents, in accordance with article 683.

#### **Article 829.- Concurrence of half siblings**

In the cases of concurrence of father and mother siblings with half siblings, the former will receive double the portion of the latter.

### **Title VI: Succession of the State and Public Charities**

#### **Article 830.- Succession of the State and Public Charity**

In the absence of testamentary or legal successors, the judge or notary who knows the process or procedure of intestate succession, will award the assets that make up the hereditary mass, to the Benevolent Society or, in the absence of this, to the Social Participation Board of the last place domicile of the deceased in the country or to the Lima Metropolitan Charity Society if he was domiciled abroad.

It is the obligation of the successful bidder to pay the debts of the deceased, if any, up to the value of the awarded assets.

The manager of the intestate succession process or procedure corresponds to ten percent of the net value of the adjudicated assets, which will be paid by the respective entity, with the proceeds from the sale of said assets or others, through the award of any from them.

## **Section Four : Hereditary estate**

### **Title I: Collation**

#### **Article 831.- Notion of collation**

Donations or other donations that, by whatever title, their forced heirs have received from the deceased, will be considered as an inheritance advance for the purpose of collateralization, except for the former's dispensation.

#### **Article 832.- Limits of the dispensation of collation**

The dispensation is allowed within the available portion and must be expressly established by the testator in his will or in another public instrument.

#### **Article 833.- Collation of goods**

The collation of the assets is made at the discretion of whoever collates, returning the asset to the estate or reinstating its value. If the asset had been sold or mortgaged, the collation will also be made for its value. In both cases, the value of the asset is the one it has at the time of the opening of the succession.

#### **Article 834.- Collation in kind**

The person who collates in kind will deduct in his favor the value of the improvements that he has made, and will compensate the estate for the value of the damage that the property has suffered through his fault.

#### **Article 835.- Collation of money, credits or securities**

If the liberality consisted of money, credits, or securities, an equitable readjustment will be made, according to the circumstances of the case, to determine the collable value at the time of the opening of the succession.

In the event of discrepancy between the heirs, the value will be determined, incidentally, by the judge who is responsible for hearing the succession.

**Article 836.- Non- collable assets**

Assets that, for reasons not attributable to the heir, have perished before the opening of the succession are not collable.

**Article 837.- Non- collable expenses**

What would have been spent on food for the heir, or on giving him some profession, art or trade, is not recorable. Neither are the other expenses made in his favor, as long as they are in accordance with the condition of the person making them and with custom.

**Article 838.- Ineligibility to collate the insurance and premiums paid**

The amount of the life insurance contracted in favor of the heir, nor the premiums paid to the insurer, if they are included in the second part of article 837, cannot be collated.

**Article 839.- Ineligibility to collate profits**

The profits obtained by the heir as a result of contracts entered into with the deceased are not collable, provided that these, at the time of their conclusion, do not affect the rights of the other heirs.

**Article 840.- Collation of legal interests and fruits**

The legal interests and the fruits produced by the money and other collable assets make up the hereditary mass from the opening of the succession.

**Article 841.- Collation of the heir by representation**

In cases of representation, the heir will collate what was received by his client.

**Article 842.- Collation of the excess of the available portion**

The resignation of the legitimate does not exempt the heir from returning what was received, insofar as it exceeds the available portion of the deceased.

**Article 843.- Exclusive benefits of the collation**

The collation is only in favor of the heirs and does not benefit the legatees or the creditors of the succession.

## **Title II: Indivision and partition**

### **Chapter One: Indivision**

#### **Article 844.- Co- ownership of heirs**

If there are several heirs, each of them is a co-owner of the inheritance assets, in proportion to the share that they have the right to inherit.

#### **Article 845.- Supplementary application of rules on co-ownership**

The state of hereditary indivision is governed by the provisions relating to co-ownership, in what was not provided for in this chapter.

#### **Article 846.- Term of indivision of the company**

The testator may establish the indivision of any company included in the inheritance, up to a period of four years, without prejudice to the heirs normally distributing the profits.

In the case of agricultural and livestock farms, the provisions of the law on the matter will be followed.

Likewise, as of the publication and registration of the submission of the succession to any of the bankruptcy procedures provided for in national legislation, the indivision of the testamentary or intestate hereditary mass will occur.

#### **Article 847.- Indivision agreed between heirs**

The heirs can agree to the total or partial indivision of the inheritance for the same term established in article 846 and also renew it.

#### **Article 848.- Registration of the indivision**

The indivision takes effect against third parties, only as soon as it is registered in the corresponding registry.

#### **Article 849.- Payment to heirs in disagreement with indivision**

In cases of indivision, the portion of the heirs who do not accept it will be paid.

#### **Article 850.- Judicial partition before the term**

The judge may order, at the request of any of the heirs, the total or partial partition of the hereditary assets before the expiration of the term of the indivision, if serious circumstances arise that justify it.

### **Article 851.- Administration of undivided inheritance**

While the inheritance remains undivided, it will be administered by the executor, or by the common attorney-in-fact appointed by all the heirs or by a judicial administrator.

## **Chapter Two: Partition**

### **Article 852.- Testamentary partition**

There is no room for partition when the testator has made it in the will, and in this case, only the reduction in the part that exceeds what is allowed by law can be requested.

However, as stated in the preceding paragraph, there is no room for partition under any circumstances as long as the bankruptcy procedure to which the undivided succession is subject remains in force, if this occurs.

### **Article 853.- Formality of the partition**

When all the heirs are capable and agree on the partition, it will be done by public deed in the case of assets registered in public records. In all other cases, a private document with notarized signatures is sufficient.

### **Article 854.- Holders of the partition action**

If there is no indivision regime, the judicial partition of the inheritance can be requested:

1. By any heir.
2. By any creditor of the succession or of any of the heirs.

### **Article 855.- Causes of judicial partition**

The judicial partition is mandatory in the following cases:

1. When there is an incapable heir, at the request of his representative.
2. When there is an heir declared absent, at the request of the people who have been given temporary possession of their property.

### **Article 856.- Suspension of participation by conceived heir**

The partition that includes the rights of a conceived heir will be suspended until his birth. In the interval the mother enjoys the corresponding inheritance as soon as she needs food.

#### **Article 857.- Suspension of the partition by agreement or judicial resolution**

The partition can also be deferred or suspended with respect to all the assets or part of them, by agreement of all the heirs or by judicial resolution and for a period not exceeding two years, when the immediate execution may cause significant damage to the hereditary patrimony, or if necessary to ensure the payment of debts or legacies.

#### **Article 858.- Partition with guarantees**

If there is disagreement between the heirs about the rights of any of them, about the obligation to collate or about the value of the collateral assets, the partition will be made, providing a guarantee for the results of the lawsuit that is promoted.

#### **Article 859.- Form of awarding hereditary assets**

The assets will be awarded in kind to each of the heirs. If this is not possible, the value of your fees will be paid in money.

#### **Article 860.- Sale of hereditary assets for payment of adjudication**

If there is not the money necessary for the payment referred to in article 859, the hereditary assets that may be necessary will be sold, with the prior majority agreement of the heirs and with judicial approval.

#### **Article 861.- Partition of divisible assets**

If there are assets in the inheritance that can be easily divided, their material partition will be made, awarding each heir the corresponding assets.

#### **Article 862.- Prorated reduction of the excess in the partition**

The portions assigned by the testator that together exceed the total inheritance will be reduced, pro rata, except as provided by the former.

#### **Article 863.- Partition of inherited credits**

The credits that constitute part of the hereditary asset will be divided among the heirs in proportion to the share they have in the inheritance.

### **Article 864.- Partition of omitted goods**

The omission of some assets in the partition is not a reason for it not to continue, to render it without effect, or to request the nullity of the one practiced. The omitted goods must be complementary matches.

### **Article 865.- Nullity of partition by default.**

The partition made by default of a successor is null. The claim is imprescriptible and is processed as a process of knowledge.

The nullity does not affect the rights of third party purchasers in good faith and for consideration.

### **Article 866.- Sanitation due to eviction in the partition**

Once the heir has expired in a judgment on the assets that were awarded to him, his joint heirs will indemnify him, pro rata, the value that they had at the time of eviction. If one of them is insolvent, the responsibility is assumed by the solvents and the person who asks for it.

### **Article 867.- Inadmissibility of the reorganization due to eviction**

There is no settlement due to eviction when the judgment comes from a cause expressly excluded from the partition, is subsequent to this or is due to the sole fault of the heir.

### **Article 868.- Inadmissibility of settlement due to insolvency**

The insolvency of the debtor of a credit awarded to one of the heirs, does not give rise to settlement, if it occurs after the partition is made.

## **Title III: Charges and debts of the inheritance**

### **Chapter One: Loads**

### **Article 869.- Charges of the hereditary mass**

They are in charge of the hereditary estate:

1. Funeral expenses and, where appropriate, incineration expenses, which are paid preferentially.
2. The expenses arising from the last illness of the deceased.
3. Administration expenses.

## **Article 870.- Extension of benefit to people who lived as the cause**

People who have lived in the home of the deceased or fed on his behalf, may demand that the executor or heirs continue the care of these benefits against the estate, for three months.

## **Chapter Two: Debts**

### **Article 871.- Debts that fall on hereditary mass**

While the inheritance remains undivided, the obligation to pay the debts of the deceased gravitates on the inheritance; but once the partition is made, each one of the heirs is liable for these debts in proportion to their hereditary quota.

### **Article 872.- Preference of payment of creditors of the deceased**

The creditors of the deceased have preference over the creditors of the heirs to be paid out of the estate.

### **Article 873.- Payment of debts before the partition**

The heir may request that the inheritance debts, duly accredited and lacking real security, be paid or their payment be assured before the partition.

### **Article 874.- Payment of food debt**

The alimony referred to in article 728 is a hereditary debt that burdens as necessary the part of free disposition of the inheritance in favor of the obligee and will be paid, depending on the case:

- 1.- Assuming one of the heirs the maintenance obligation by disposition of the testator or by agreement between them. Your payment can be secured by mortgage or other guarantee.
- 2.- Calculating the amount of alimony during the time remaining for its extinction, and delivering to the obligee or his legal representative, the capital representative of the income.

The choice of the indicated alternatives corresponds to the heirs; If there is disagreement between them, the judge will decide on the method of payment.

### **Article 875.- Opposition of the creditor to the partition**

The creditor of the inheritance may oppose the partition and the payment or delivery of the legacies, as long as his debt is not satisfied or payment is assured.

The opposition is exercised through demand, or as a third party with interest in the existing process, if applicable. The procedural powers depend on the nature of your right.

You can also demand the preventive protection of your right not yet enforceable. This claim is processed as an abbreviated process.

#### **Article 876.- Ineffectiveness of the partition with respect to the creditor**

If, despite the opposition provided for in article 875, the partition is made, without paying the debt or ensuring its payment, the partition shall be deemed not made as far as the rights of the opponent are concerned.

#### **Article 877.- Compensation to heir for payment of debt**

The heir who has paid a duly accredited inheritance debt, or who has been executed by it, has the right to be compensated by his joint heirs in the proportional part that corresponds to each of them.

#### **Article 878.- Injury of the joint heirs due to insolvency**

The insolvency of any of the joint heirs obliged to compensate the one who paid a hereditary debt, or who suffered a seizure for it, harms pro rata the one who paid it and the other responsible joint heirs, when the insolvency existed at the time of payment.

#### **Article 879.- Inability of the legatee to pay the inheritance debt**

The legatee is not obliged to pay the debts of the inheritance, unless otherwise provided by the testator. If he had paid any duly accredited debt that specifically burdens the legacy asset, he must be compensated by the heirs for what he has paid.

#### **Article 880.- Conservation of credit rights of the heir or legatee**

The heir or legatee who is the creditor of the deceased, retains the rights derived from his credit, without prejudice to the consolidation that may operate.

### **Book V: Real rights**

#### **Section first : General provisions**

#### **Article 881.- Notion of Real Rights**

Real rights are those regulated in this Book and other laws.

### **Article 882.- Inadmissibility of prohibition of alienating or encumbering**

The prohibition to alienate or encumber cannot be established contractually, unless the law allows it.

### **Article 884.- Norms that govern intangible property**

Intangible properties are governed by their special legislation.

## **Second section : Goods**

### **Title I: Classes of goods**

#### **Article 885.- Real estate**

They are real estate:

- 1.- The ground, the subsoil and the subsoil.
- 2.- The sea, lakes, rivers, springs, water currents and living or stately waters.
- 3.- The mines, quarries and hydrocarbon deposits.
- 4.- Ships and vessels
- 5.- Docks and piers.
- 6.- repealed
- 7.- Concessions to exploit public services.
- 8.- Mining concessions obtained by individuals.
- 9.- Repealed
- 10.- The rights over property inscribable in the registry.
- 11.- Other assets to which the law confers such quality.

#### **Article 886.- Movable**

They are furniture:

1.
  1. Land vehicles of any kind.
  2. The natural forces susceptible of appropriation.
  3. Constructions on foreign land, made for a temporary purpose.
  4. Construction materials or materials from a demolition if they are not attached to the ground.

5. Securities of any kind or instruments showing the acquisition of credits or personal rights.
6. The patrimonial rights of author, patent rights, trade names, brands and other intellectual property rights.
7. Income or pensions of any kind.
8. The shares or participations that each partner has in companies or associations, even if they belong to real estate.
9. The other goods that can be carried from one place to another.
10. Other goods not included in article 885.

## **Title II: Integral parts and accessories**

### **Article 887.- Notion of integral part**

It is an integral part that which cannot be separated without destroying, deteriorating or altering the good.

The integral parts cannot be the object of singular rights.

### **Article 888.- Notion of accessory goods**

Accessories are goods that, without losing their individuality, are permanently assigned to an economic or ornamental purpose with respect to another good.

The affectation can only be made by the owner of the main asset or whoever has the right to dispose of it, respecting the rights acquired by third parties.

Accessories may be subject to individual rights.

The temporary use of a good for the economic purpose of another does not grant it the quality of accessory.

The provisional separation of the accessory to serve the economic purpose of another good does not suppress its quality.

### **Article 889.- Integral and accessory parts**

The integral parts of a good and its accessories follow its condition, unless the law or the contract allows their differentiation or separation.

## **Title III : Fruits and products**

### **Article 890.- Notion of fruits**

The renewable benefits produced by a good are fruits, without its substance being altered or diminished.

### **Article 891.- Kinds of fruits**

The fruits are natural, industrial and civil. Natural fruits are those that come from good, without human intervention. Industrial fruits are those that good produces, through human intervention. Civil fruits are those that the property produces as a consequence of a legal relationship.

### **Article 892.- Perception of natural, industrial and civil fruits**

Natural, industrial and civil fruits belong to the owner, producer and holder of the right respectively, without prejudice to the acquired rights.

The natural fruits are received when they are collected, the industrial ones when they are obtained and the civil ones when they are collected.

### **Article 893.- Computation of industrial or civil fruits**

For the calculation of industrial or civil fruits, the expenses and disbursements made to obtain them will be reduced.

### **Article 894.- Concept of products**

Products are non-renewable benefits that are extracted from a good.

### **Article 895.- Extensive application of the rules on fruits**

The provisions on fruit cover the products if they do not expressly exclude them.

## **Third section: Main real rights**

### **Title I: Possession**

#### **Chapter one: General provisions**

### **Article 896.- Notion of possession**

Possession is the de facto exercise of one or more powers inherent to property.

#### **Article 897.- Servant of the possession**

It is not a possessor who, being in a dependent relationship with respect to another, retains possession on his behalf and in compliance with his orders and instructions.

#### **Article 898.- Addition of the possession term**

The possessor may add to his possession term that of the one who validly transmitted the property.

#### **Article 899.- Co-possession**

There is co-possession when two or more people own the same property together.

Each possessor may exercise possessory acts on the goods, provided that they do not mean the exclusion of the others.

### **Chapter Two: Acquisition and Preservation of Possession**

#### **Article 900.- Acquisition of possession**

Possession is acquired by tradition, except in cases of original acquisition established by law.

#### **Article 901.- Tradition**

The tradition is carried out by delivering the property to the person who should receive it or to the person designated by him or by law and with the formalities established by it.

#### **Article 902.- Substitutes of the tradition**

The tradition is also considered accomplished:

- 1.- When the ownership title of who is owning changes.
- 2.- When the property that is in the power of a third party is transferred. In this case, the tradition takes effect as regards the third party only since it is communicated in writing.

#### **Article 903.- Documentary tradition**

In the case of articles traveling or subject to the general warehouse regime, the tradition is carried out by the delivery of the documents destined to collect them.

However, the purchaser in good faith of unidentifiable objects, to whom they have been delivered, has preference over the holder of the documents, unless proven otherwise.

#### **Article 904.- Preservation of possession**

Possession is preserved, although its exercise is impeded by events of a temporary nature.

### **Chapter three: Classes of possession and their effects**

#### **Article 905.- Immediate and mediate possession**

The temporary holder by virtue of a title is the immediate possessor. Mediate possession corresponds to the person who conferred the title.

#### **Article 906.- Illegitimate possession in good faith**

Illegitimate possession is in good faith when the possessor believes in its legitimacy, due to ignorance or error of fact or law about the vice that invalidates its title.

#### **Article 907.- Duration of good faith**

Good faith lasts as long as the circumstances allow the possessor to believe that he possesses legitimately or, in any case, until he is summoned in court, if the claim is well founded.

#### **Article 908.- Possession in good faith and the fruits**

The possessor in good faith endorses the fruits.

#### **Article 909.- Responsibility of the holder in bad faith**

The possessor in bad faith is liable for the loss or detriment of the property even by unforeseeable circumstances or force majeure, unless this would also have occurred if it had been in the possession of the owner.

#### **Article 910.- Obligation of the holder in bad faith to return fruits**

The possessor in bad faith is obliged to deliver the fruits received and, if they do not exist, to pay their estimated value at the time they were received or should have been received.

### **Article 911.- Precarious possession**

Precarious possession is that which is exercised without any title or when the one that was had has expired.

## **Chapter Four: Legal Presumptions**

### **Article 912.- Presumption of ownership**

The holder is the reputed owner, until the contrary is proven. This presumption cannot be opposed by the immediate possessor to the mediate possessor. Nor can you oppose the owner with registered rights.

### **Article 913.- Presumption of possession of accessories**

The possession of a good makes one presume the possession of its accessories.

Possession of a property presumes that of the movable property found in it.

### **Article 914.- Presumption of good faith of the holder**

The good faith of the holder is presumed, unless proven otherwise.

The presumption referred to in this article does not favor the owner of the property registered in the name of another person.

### **Article 915.- Presumption of continuous possession**

If the current possessor proves to have previously possessed, it is presumed that he possessed in the intervening time, unless proven otherwise.

## **Chapter Five: Improvements**

### **Article 916.- Classes of improvements**

Improvements are necessary when they are intended to prevent the destruction or deterioration of the property.

They are useful, those that without belonging to the category of necessary increase the value and income of the good.

They are for recreation, when without being necessary or useful, they serve for decoration, display or greater comfort.

#### **Article 917.- Right to value or withdrawal of improvements**

The owner is entitled to the present value of the necessary and useful improvements that exist at the time of the restitution and to withdraw the recreational improvements that can be separated without damage, unless the owner chooses to pay for their present value.

The rule in the previous paragraph is not applicable to improvements made after the summons, but only when it is necessary.

#### **Article 918.- Right of retention**

In cases where the holder must be reimbursed for improvements, he has a lien.

#### **Article 919.- Prescription of the reimbursement action**

Once the property is restored, the right of separation is lost, and after two months the action for reimbursement prescribes.

### **Chapter Six: Defense of Possession**

#### **Article 920.-Extrajudicial defense of possession**

The possessor can repel the force used against him or the good and regain it, if he is dispossessed. The action is carried out within fifteen (15) days after you become aware of the dispossession. In any case, you must refrain from de facto means not justified by the circumstances.

The owner of a property that does not have a building or it is in said process, can also invoke the defense indicated in the previous paragraph in the event that his property was occupied by a precarious owner. In no case does the possessory defense proceed if the precarious possessor has usufruct the property as owner for at least ten (10) years.

The National Police of Peru as well as the respective Municipalities, within the framework of their powers provided for in the Organic Law of Municipalities, must provide the necessary support in order to guarantee strict compliance with this article, under responsibility.

In no case does the possessory defense against the owner of a property proceed, unless the prescription, regulated in article 950 of this Code, has operated.

## **Article 921.-Judicial possession defense**

Any owner of registered furniture and real estate can use the possessory actions and injunctions. If he has been in office for more than one year, he can reject the injunctions that are brought against him.

### **Chapter Seven: Extinction of Possession**

## **Article 922.- Causes of extinction of possession**

Possession is extinguished by:

1.
  1. Tradition
  2. Abandonment
  3. Execution of judicial resolution
  4. Total destruction or loss of property.

## **Title II : Property**

### **Chapter one : General provisions**

## **Article 923.- Notion of property**

Property is the legal power that allows you to use, enjoy, dispose of and claim an asset. It must be exercised in harmony with the social interest and within the limits of the law.

## **Article 924.- Abusive exercise of property rights**

Anyone who suffers or is threatened with damage because another exceeds or abuses in the exercise of their right, can demand that the previous state be restored or that the appropriate measures be adopted, without prejudice to compensation for the damages incurred.

## **Article 925.- Legal restrictions**

Legal restrictions on property established for reasons of public need and utility or of social interest cannot be modified or suppressed by legal act.

## **Article 926.- Conventional restrictions**

The property restrictions established by agreement to take effect with respect to third parties, must be registered in the respective registry.

### **Article 927.- Claim action**

The claim action is imprescriptible. It does not proceed against the person who acquired the property by prescription.

### **Article 928.- Legal regime of expropriation**

Expropriation is governed by the legislation on the matter.

## **Chapter Two: Property Acquisition**

### **Subchapter I: Appropriation**

### **Article 929.- Appropriation of free things**

Things that do not belong to anyone, such as stones, shells or other similar that are in the sea or in rivers or on their beaches or shores, are acquired by the person who apprehends them, except as provided in the laws and regulations .

### **Article 930.- Appropriation for hunting and fishing**

Game animals and fish are acquired by whoever catches them, but it is enough that they have fallen into the traps or nets, or that, injured, they are pursued without interruption.

### **Article 931.- Hunting and fishing on someone else's property**

Hunting or fishing is not allowed on someone else's property, without the permission of the owner or possessor, as the case may be, except in the case of land that is not fenced or sown.

The animals hunted or fished in contravention of this article belong to their owner or possessor, as the case may be, without prejudice to the corresponding compensation.

### **Article 932.- Finding of lost objects**

Whoever finds a lost object is obliged to deliver it to the municipal authority, which will communicate the finding by public announcement. If three months elapse and no one claims it, it will be sold at public auction and the product will be distributed in halves between the Municipality and whoever found it, after deducting the expenses.

### **Article 933.- Expenses and gratification for the discovery**

The owner who recovers the loss is obliged to pay the expenses and to pay the one who found it the reward offered or, failing that, one appropriate to the circumstances. If it is money, that reward will not be less than a third of what was recovered.

### **Article 934.- Search for treasure in someone else's land**

It is not allowed to search for treasure in someone else's land fenced, sown or built, unless expressly authorized by the owner. The treasure found in contravention of this article belongs entirely to the owner of the land.

Whoever searches for treasure without the express authorization of the owner is obliged to pay compensation for the resulting damages.

### **Article 935.- Division of treasure found on foreign land**

The treasure discovered in someone else's land not fenced, sown or built, is divided equally between the one who finds it and the owner of the land, unless otherwise agreed.

### **Article 936.- Protection of the Cultural Heritage of the Nation**

Articles 934 and 935 are applicable only when they are not contrary to the norms that regulate the cultural heritage of the Nation.

#### Subchapter II: Specification and mixing

### **Article 937.- Acquisition by specification and mixing**

The object that is made in good faith with foreign matter belongs to the maker, paying the value of the thing used.

The species that results from the union or mixture of others from different owners, belongs to them in proportion to their respective values.

#### Subchapter III: Accession

### **Article 938.- Notion of accession**

The owner of a good acquires by accession what is attached or materially adhered to it.

### **Article 939.- Accession by alluvium**

The land unions and the increments that are successively and imperceptibly formed in the estates located along the rivers or streams, belong to the owner of the estate.

#### **Article 940.- Accession by avulsion**

When the force of the river tears a considerable and recognizable portion in a riverside field and carries it to that of another riverside owner, the first owner can claim his property, having to do so within two years of the occurrence. Once this period has expired, he will lose his property rights, unless the owner of the field to which the uprooted portion was attached has not yet taken possession of it.

#### **Article 941.- Building in good faith on foreign land**

When building in good faith on someone else's land, the owner of the land can choose between making the building his own or compelling the invader to pay for the land. In the first case, the owner of the land must pay the value of the building, the amount of which will be the average between the cost and the current value of the work. In the second case, the invader must pay the current market value of the land.

#### **Article 942.- Bad faith of the land owner**

If the owner of the land acts in bad faith, the option referred to in article 941 corresponds to the invader in good faith, who in this case can demand that the current value of the building be paid or pay the current commercial value of the land.

#### **Article 943.- Building in bad faith on someone else's land**

When it is built in bad faith on someone else's land, the owner may demand the demolition of the building if it causes harm, plus the payment of the corresponding compensation or make the building his own without having to pay its value. In the first case, the demolition is the responsibility of the invader.

#### **Article 944.- Invasion of the adjacent land**

When a building has partially invaded and in good faith the land of the neighboring property without the owner of the property having objected, the owner of the building acquires the occupied land, paying its value, unless the building is destroyed.

If the occupied portion makes the rest of the land insufficient for use in normal construction, the invader may be required to acquire it entirely.

When the invasion referred to in this article has been in bad faith, the provisions of article 943 shall govern.

#### **Article 945.- Building or planting with foreign materials, plants or seeds**

Anyone who in good faith builds with other people's materials or sows other people's plants or seeds, acquires what is built or sown, but must pay the value of the materials, plants or seeds and compensation for damages caused.

If the building or planting is done in bad faith, the previous paragraph applies, but whoever builds or plants must pay double the value of the materials, plants or seeds and the corresponding compensation for damages.

#### **Article 946.- Natural accession**

The owner of a female animal acquires the offspring, unless otherwise agreed.

For animals to be considered fruits, it is enough that they are in the mother's womb, even if they were not born.

In cases of artificial insemination carried out with reproductive elements from a foreign animal, the owner of the female acquires the offspring by paying the value of the reproductive element, if he acts in good faith, and triple that value, if he does so in bad faith.

### Subchapter IV: Transfer of ownership

#### **Article 947.- Transfer of ownership of personal property**

The transfer of ownership of a certain movable thing is carried out with the tradition to its creditor, except for different legal provision.

#### **Article 948.- Acquisition from "non dominus" of personal property**

Who in good faith and as owner receives from another the possession of a movable thing, acquires the domain, although the transferor of the possession lacks the power to do so. Lost property and those acquired in violation of criminal law are excepted from this rule.

#### **Article 949.- Transfer of ownership of real estate**

The sole obligation to dispose of a specific property makes the creditor the owner of it, except for a different legal provision or agreement to the contrary.

## Subchapter V: Purchasing Prescription

### **Article 950.- Purchasing prescription**

Real property is acquired by prescription through continuous, peaceful and public possession as owner for ten years.

It is acquired at the age of five when there is a fair title and good faith.

### **Article 951.- Requirements of the acquisition prescription of personal property**

The acquisition by prescription of a personal property requires continuous, peaceful and public possession as owner for two years if there is good faith, and for four if there is not.

### **Article 952.- Judicial declaration of acquisitive prescription**

Whoever acquires an asset by prescription can file a lawsuit to be declared the owner.

The sentence that agrees to the petition is title for the registration of the property in the respective registry and to cancel the entry in favor of the former owner.

### **Article 953.- Interruption of the prescriptive term**

The term of prescription is interrupted if the possessor loses possession or is deprived of it, but that effect ceases if he recovers it within a year or if it is restored by sentence.

## **Chapter Three: Property Property**

### Subchapter I: General provisions

### **Article 954.- Extension of the property right**

The property of the property extends to the subsoil and the subsoil, included within the vertical planes of the superficial perimeter and to the extent that it is useful to the owner to exercise his right.

The ownership of the subsoil does not include natural resources, archaeological sites and remains, or other assets governed by special laws.

### **Article 955.- Property of the soil, subsoil and subsoil**

The subsoil or subsoil may belong, totally or partially, to a different owner than the owner of the ground.

### **Article 956.- Actions for work that threatens ruin**

If any work threatens ruin, whoever has a legitimate interest may request the repair, demolition or the adoption of preventive measures.

### **Article 957.- Regime of property property**

Real estate property is subject to zoning, the authorization and subdivision processes and the requirements and limitations established by the respective provisions.

### **Article 958.- Regime of horizontal property**

Horizontal property is governed by the legislation on the matter.

#### Subchapter II: Limitations by reason of neighborhood

### **Article 959.- Acts to avoid danger to neighboring properties**

The owner cannot prevent the execution of acts on his property for provisional services of neighboring properties, which avoid or conjure a current or imminent danger, but he will be compensated for the damages and losses caused.

### **Article 960.- Passing of construction materials through someone else's property**

If to construct or repair a building it is essential to pass materials through someone else's property or place scaffolding on it, the owner of the building must consent to this, receiving compensation for the damages caused.

### **Article 961.- Limits to the industrial exploitation of the property**

The owner, in exercise of his right and especially in his industrial exploitation work, must refrain from harming the adjoining or neighboring properties, the safety, peace and health of its inhabitants.

Smokes, soot, emanations, noises, tremors and similar annoyances that exceed the tolerance that the neighbors owe each other in attention to the circumstances are prohibited.

### **Article 962.- Prohibition of opening or digging wells that damage neighboring property**

The owner of a property is not allowed to open or dig wells on his land that may cause ruin or collapse in the neighboring property or damage the existing plantations therein and may be forced to

keep the necessary distances for the safety of the affected properties , in addition to the obligation to pay compensation for damages.

### **Article 963.- Noxious and dangerous works and deposits**

If near a boundary a furnace, chimney, stable or other similar or tank for water or humid, penetrating, explosive or radioactive materials is built or machinery or the like is installed, the distances and precautions established by the respective regulations must be observed and, failing of these, those that are necessary to preserve the soundness or health of neighboring properties. Non-observance of this provision may lead to the closure or withdrawal of the work and compensation for damages.

### **Article 964.- Water passage through neighboring property**

The owner cannot make the waters corresponding to the property flow in the neighboring properties, unless otherwise agreed.

## **Subchapter III: Rights of the owner**

### **Article 965.- Right to enclose a property**

The owner of a property has the right to fence it.

### **Article 966.- Obligation of demarcation and marking**

The owner of a property can oblige neighbors, whether they are owners or possessors, to demarcate and demarcate.

### **Article 967.- Right to cut off branches and invasive roots of the property**

Any owner can cut the branches of the trees that extend on the property and the roots that invade it. When necessary, you may appeal to the municipal or judicial authority to exercise these rights.

## **Chapter Four: Extinction of Property**

### **Article 968.- Causes of extinction of the property**

The property is extinguished for:

1.

1. Acquisition of the property by another person.

2. Destruction or total loss or consumption of the good.
3. Expropriation.
4. Abandonment of the property for twenty years, in which case the property passes into the domain of the State.

## **Chapter Five: Co-ownership**

### Subchapter I: General provisions

#### **Article 969.- Notion of Co- ownership**

There is co-ownership when an asset belongs to two or more people by ideal installments.

#### **Article 970.- Presumption of equal quotas.**

The owners' fees are presumed equal, unless proven otherwise.

The participation of the co-owners, both in the benefits and in the charges, is in proportion to their respective quotas.

#### **Article 971.- Decisions on the common good**

Decisions on the common good will be made by:

1.
  1. Unanimously, to dispose, encumber or lease the property, give it as a loan or make changes to it.
  2. Absolute majority, for acts of ordinary administration. The votes are computed by the value of the quotas.

In the event of a tie, the judge decides incidentally.

#### **Article 972.- Regime applicable to the judicial administration of common goods**

The judicial administration of common property is governed by the Code of Civil Procedures.

#### **Article 973.- Administration of the common good by one of the co-owners**

Any of the co-owners can assume the administration and undertake the works for the normal exploitation of the property, if the conventional or judicial administration is not established and as long as none of them is requested.

In this case, the administrator's obligations will be those of the judicial administrator. Their services will be rewarded with a portion of the profit, set by the judge and observing the processing of incidents.

## Subchapter II: Rights and obligations of the co-owners

### **Article 974.- Right to use the common good**

Each co-owner has the right to use the common good, as long as it does not alter his destiny or harm the interests of others.

The right to use the common good corresponds to each co-owner. In case of disagreement, the judge will regulate the use, observing the procedural rules on judicial administration of common property.

### **Article 975.- Compensation for total or partial use of the property**

The co-owner who uses the property partially or totally to the exclusion of the others, must compensate them in the proportions that correspond to them, except as provided in article 731.

### **Article 976.- Right of enjoyment**

The right to enjoy corresponds to each co-owner. They are obliged to reimburse themselves proportionally for the benefits obtained from the property.

### **Article 977.- Provision of the ideal quota and its fruits**

Each co-owner can have their ideal quota and the respective fruits. You can also tax them.

### **Article 978.- Conditionality of the validity of acts of exclusive property**

If a co-owner practices all or part of an asset, an act that involves the exercise of exclusive ownership, said act will only be valid from the moment the asset or the part to whom the act was performed is awarded.

### **Article 979.- Rein vindication and defense of the common good**

Any co-owner can claim the common good. Likewise, it can promote possessory actions, injunctions, eviction actions, notice of dismissal and others determined by law.

### **Article 980.- Necessary and useful improvements in co-ownership**

The necessary and useful improvements belong to all the co-owners, with the obligation to respond proportionally for the expenses.

#### **Article 981.- Conservation expenses and charges of the common good**

All co-owners are obliged to attend, in proportion to their part, the maintenance costs and the payment of taxes, charges and levies that affect the common good.

#### **Article 982.- Sanitation by eviction of the common good**

The co-owners are reciprocally obligated to reorganization in the event of eviction, in proportion to each one's share.

### Subchapter III: Partition

#### **Article 983.- Notion of partition**

Through the partition, the co-owners interchange, each assigning the right they have over the assets that are not awarded to them, in exchange for the right assigned to them in those awarded to them.

#### **Article 984.- Obligatory nature of the partition**

The co-owners are obliged to make a partition when one of them or the creditor of any one requests it, except in cases of forced indivision, a legal act or law that sets a term for the partition.

#### **Article 985.- Non-applicability of the partition action**

The partition action is imprescriptible and none of the co-owners or their successors can acquire the common property by prescription.

#### **Article 986.- Conventional partition**

The co-owners can partition by unanimous agreement.  
The conventional partition can also be done by lottery.

#### **Article 987.- Special conventional partition**

If any of the co-owners is incapable or has been declared absent, the conventional partition is submitted to judicial approval, accompanying the request for appraisal of the goods by a third party, with a notarized signature, as well as the document containing the partition agreement, signed by all

interested parties and their legal representatives. Appraisal can be dispensed with when the goods are listed on the stock market or similar market, or a value determined for tax purposes.

The approval request is subject to the non-contentious process, summoned by the Public Ministry and the family council, if it is already constituted.

#### **Article 988.- Partition of indivisible assets**

Common goods that are not subject to material division may be awarded jointly to two or more co-owners who agree to it, or they will be sold by agreement of all of them and the price will be divided. If the co-owners do not agree to the joint award or the contractual sale, they will be sold at public auction.

#### **Article 989.- Right of preference of the co-owner**

The co-owners have the right of preference to avoid the auction referred to in article 988 and acquire their property, paying in money the price of the appraisal in the parts that correspond to the other co-participants.

#### **Article 990.- Injury in the partition**

The injury in the partition is governed by the provisions of articles 1447 to 1456.

#### **Article 991.- Deferral or suspension of the partition**

The partition may be deferred or suspended by unanimous agreement of the co-owners. If there are incapable co-owners, judicial authorization will be required, observing the rules provided for in article 987.

### Subchapter IV: Extinction of joint ownership

#### **Article 992.- Causes of extinction of the joint ownership**

The joint ownership is extinguished by:

- 1.- Division and partition of the common good.
- 2.- Meeting of all the shares in a single owner.
- 3.- Total destruction or loss of the property.

4.- Alienation of the property to a third party.

5.- Loss of property rights of the co-owners.

### **Subchapter V: Indivision Pact**

#### **Article 993.- Term and effects of the indivision pact**

The co-owners may enter into an indivision agreement for a period of no more than four years and renew it as many times as they deem appropriate.

The indivision agreement that does not specify a term is presumed to be for four years.

In order to be effective against third parties, the indivision agreement must be registered in the corresponding registry.

If there are serious circumstances, the judge may order the partition before the expiration of the term.

### **Subchapter VI: Mediation**

#### **Article 994.- Presumption of mediation**

The walls, fences or ditches located between two properties are presumed common, as long as the contrary is not proven.

#### **Article 995.- Obtaining mediation**

If the wall that separates the properties has been raised on the land of one of them, the neighbor can obtain the dividing wall by paying half the current value of the work and the occupied land.

In this case, you can request the deletion of everything that is incompatible with the right that gives you the party.

#### **Article 996.- Use of dividing wall**

Any adjoining person can place braces and beams in the dividing wall, and use it without damaging it, but they cannot open windows or skylights in it.

#### **Article 997.- Construction of dividing wall**

Any adjoining wall can raise the dividing wall, being the cost of the repair and any others that require the greater height.

### **Article 998.- Charges of the dividing wall**

The adjoining parties must contribute pro rata for the conservation, repair or reconstruction of the dividing wall, unless they renounce the dividing wall, whether or not they use it.

## **Title III: Usufruct**

### **Chapter one: General provisions**

#### **Article 999.- Notion of Usufruct**

The usufruct confers the faculties to use and temporarily enjoy another's property.

Certain benefits and utilities may be excluded from the usufruct.

The usufruct may fall on all kinds of non-consumable goods, except as provided in articles 1018 to 1020.

#### **Article 1000.- Constitution of the usufruct**

The usufruct can be constituted by:

1.
  1. Law when expressly determined.
  2. Contract or unilateral legal act.
  3. Will

#### **Article 1001.- Term of the usufruct**

The usufruct is temporary. The usufruct constituted in favor of a legal person may not exceed thirty years and any longer term that is set is reduced to this.

In the case of real estate of monumental value owned by the State that is subject to restoration with funds from natural or legal persons, the usufruct that the State constitutes in favor of them may have a maximum term of ninety-nine years.

#### **Article 1002.- Transfer or encumbrance of the usufruct**

The usufruct, with the exception of the legal one, may be transferred for consideration or free of charge or be encumbered, respecting its duration and provided that there is no express prohibition.

### **Article 1003.- Usufruct of the expropriated property**

In case of expropriation of the property that is the object of the usufruct, it will fall on the value of the expropriation.

### **Article 1004.- Legal usufruct over products**

When the legal usufruct falls on the products referred to in article 894, the parents will restore half of the net income obtained.

### **Article 1005.- Regime of the effects of usufruct**

The effects of usufruct are governed by the constitutive act and, not being provided for in it, by the provisions of this title.

## **Chapter two: Duties and rights of the usufructuary**

### **Article 1006.- Inventory and appraisal of assets by the usufructuary**

Upon entering possession, the usufructuary will make an inventory and appraisal of the movable property, unless it has been expressly exempted from this obligation by the owner who does not have a forced heir. The inventory and the appraisal will be judicial when it comes to the legal and testamentary usufruct.

### **Article 1007.- Obligation of the usufructuary to provide a guarantee**

The usufructuary is obliged to provide the guarantee indicated in the title constituting his right or that ordered by the judge, when he finds that the right of the owner may be endangered.

### **Article 1008.- Exploitation of the asset**

The usufructuary must exploit the property in the normal and customary way.

### **Article 1009.- Prohibition to modify the usufruct asset**

The usufructuary must not make any substantial modification of the property or its use.

### **Article 1010.- Obligation of the usufructuary to pay taxes and rents**

The usufructuary must pay the taxes, life annuities and alimony pensions levied on the assets.

#### **Article 1011.- Right of subrogation of the usufructuary**

If the usufructuary pays the mortgage debt or the interest it accrues, it is subrogated to the credit paid.

#### **Article 1012.- Wear and tear of the good for ordinary enjoyment**

The usufructuary is not liable for wear and tear due to ordinary enjoyment.

#### **Article 1013.- Obligation to repair the usufruct asset.**

The usufructuary is obliged to carry out ordinary repairs and, if extraordinary works are needed due to his fault, he must do them at his own expense.

#### **Article 1014.- Ordinary repairs.**

Ordinary repairs are considered to be those that require damages that come from the normal use of the goods and are essential for their conservation.

The owner can legally demand the execution of the repairs. The order is processed as an incident.

#### **Article 1015.- Supplementary application of the rules on improvements**

The rules on necessary, useful and recreational improvements established for possession apply to usufruct.

#### **Article 1016.- Ownership of pending fruits**

Natural and mixed fruits pending at the beginning of the usufruct belong to the usufructuary; and to the owner, the pending to its term.

#### **Article 1017.- Opposition for infractions of the owner**

The owner can oppose any act of the usufructuary that imports an infringement of articles 1008 and 1009 and ask the judge to regulate the use or exploitation. The order is processed as an incident.

### **Chapter Three: Quasiusufruct**

#### **Article 1018.- Usufruct of money**

The usufruct of money only entitles you to receive income.

### **Article 1019.- Usufruct of a credit**

The usufructuary of a credit has the actions to collect the rent and must exercise the necessary actions so that the credit is not extinguished.

### **Article 1020.- Collection of capital.**

If the usufructuary collects the capital, it must do so jointly with the owner and in this case the usufruct will fall on the money collected.

## **Chapter Four: Extinction and modification of the usufruct**

### **Article 1021.- Causes for the extinction of the usufruct.**

The usufruct is extinguished by:

1. Compliance with the maximum terms provided for in article 1001 or that established in the constitutive act.
2. Prescription resulting from the non-use of the right for five years.
3. Consolidation.
4. Death or resignation of the usufructuary.
5. Destruction or total loss of the property.
6. Abuse that the usufructuary makes of his right, alienating or deteriorating the goods or letting them perish due to lack of ordinary repairs. In this case the judge declares the extinction.

### **Article 1022.- Usufruct in favor of several people**

The usufruct constituted in favor of several people in succession is extinguished on the death of the last.

If the usufruct is constituted in favor of several people jointly, the death of one of these will determine that the others increase their right. This usufruct is also extinguished with the death of the last person.

### **Article 1023.- Destruction of the usufruct asset**

If the destruction of the property occurs by fraud or fault of a third party, the usufruct is transferred to the compensation due by the person responsible for the damage.

If the property given in usufruct is destroyed, being insured by the constituent or the usufructuary, the usufruct is transferred to the compensation paid by the insurer.

#### **Article 1024.- Destruction or partial loss of the usufruct asset**

If the property subject to the usufruct is destroyed or lost in part, the usufruct is preserved on the rest.

#### **Article 1025.- Usufruct on property or building**

If the usufruct is established on a farm of which a building that is destroyed by old age or accident is part, the usufructuary has the right to enjoy the land and materials.

But if the usufruct is established only on a building that is destroyed, the usufructuary does not have the right to the land or the materials, or to the building that the owner rebuilds at his expense.

### **Title IV: Use and habitation**

#### **Article 1026.- Legal regime of the right of use**

The right to use or avail of a non-consumable good is governed by the provisions of the previous title, insofar as they are applicable.

#### **Article 1027.- Right of residence.**

When the right of use falls on a house or part of it to serve as a dwelling, the right of habitation is deemed constituted.

#### **Article 1028.- Extension of the rights of use and habitation.**

The rights of use and habitation extend to the user's family, unless otherwise provided.

#### **Article 1029.- Personal nature of the rights of use and habitation.**

The rights of use and habitation cannot be the subject of any legal act, except consolidation.

### **Title V: Surface**

#### **Article 1030.- Surface: Concept and term**

The surface right can be constituted by which the surface owner enjoys the power to temporarily have a construction in separate property on or under the surface of the ground.

This right cannot last more than ninety-nine years. Upon expiration, the owner of the land acquires the property of the building, reimbursing its value, unless otherwise agreed.

#### **Article 1031.- Constitution or transferability**

The surface right can be constituted by an act inter vivos or by testament. This right is transferable, unless expressly prohibited.

#### **Article 1032.- Extension of the surface right**

The surface right may be extended to the use of a part of the land, not necessary for construction, if said part offers an advantage for its better use.

#### **Article 1033.- Survival of the surface right**

The right of surface is not extinguished by the destruction of the built.

#### **Article 1034.- Extinction of the surface right**

The termination of the surface right implies the termination of the rights granted by the surface rights in favor of a third party.

### **Title VI: Easements**

#### **Article 1035.- Legal and conventional easement.**

The law or the owner of a property may impose taxes for the benefit of another that entitle the owner of the dominant property to practice certain acts of use of the servant property or to prevent the owner of the latter from exercising any of his rights.

#### **Article 1036.- Characteristics of the easement.**

The easements are inseparable from both properties. They can only be transmitted with them and they subsist regardless of their owner.

#### **Article 1037.- Perpetuity of the easement.**

Easements are perpetual, unless otherwise provided by law or agreement.

**Article 1038.- Indivisibility of the easement.**

The easements are indivisible. Consequently, the easement is owed in full to each of the owners of the dominant property and to each of the servants.

**Article 1039.- Division of the dominant property**

If the dominant property is divided, the easement subsists in favor of the successful bidders who need it, but without exceeding the lien on the servant property.

**Article 1040.- Apparent easements.**

Only apparent easements can be acquired by prescription, through continuous possession for five years with just title and good faith, or for ten years without these requirements.

**Article 1041.- Constitution of easement by the usufructuary**

The usufructuary may constitute easements for the term of the usufruct, with the owner's knowledge.

**Article 1042.- Easement of property subject to joint ownership.**

The property subject to joint ownership can only be taxed with easements if all the joint owners give their consent. If there are incapable co-owners, judicial authorization will be required, observing the rules of article 987 as they are applicable.

The co-owner may acquire easements for the benefit of the common property, even if the other co-owners ignore it.

**Article 1043.- Extension and conditions of the easement**

The extension and other conditions of the easements are governed by the title of their constitution and, failing that, by the provisions of this Code.

Any doubt about the existence of an easement, its extension or way of exercising it, is interpreted in the least burdensome sense for the servant property, but without making it impossible or difficult to use the easement.

**Article 1044.- Works for the exercise of servitude**

In the absence of a legal provision or agreement to the contrary, the owner of the dominant property will carry out the works required for the exercise of the easement at his own expense, in the time and manner that is less inconvenient for the owner of the servant property.

### **Article 1045.- Conservation of the easement**

The easement is preserved by the use of a stranger, if it is done in consideration of the dominant property.

### **Article 1046.- Prohibition to increase tax.**

The owner of the dominant property cannot increase the lien on the servant property by his own deed or act.

### **Article 1047.- Prohibition to prevent the use of easement**

The owner of the servient estate cannot prevent the exercise or impair the use of the easement. If for reasons of place or manner the easement is uncomfortable, it may be varied if it does not impair its use.

### **Article 1048.- Easement over own good**

The owner of two properties may encumber one with easement for the benefit of the other.

### **Article 1049.- Extinction due to total destruction**

Easements are extinguished by total destruction, voluntary or involuntary, of any of the buildings, dominant or servant, without diminishing those relating to the ground. But they revive by rebuilding, provided they can be used.

### **Article 1050.- Extinction due to lack of use**

Easements are extinguished in all cases due to non-use for five years.

### **Article 1051.- Legal easement of way**

The legal easement of way is established for the benefit of properties that do not have access to public roads.

This easement ceases when the owner of the dominant property acquires another one that exits him or when a road opens that gives immediate access to said property.

### **Article 1052.- Onerosity of the legal easement of way**

The easement of Article 1051 is onerous. When valuing it, the damages and losses resulting to the owner of the servant property must also be taken into account.

### **Article 1053.- Free right of way**

Whoever acquires a property located in another property of the transferor acquires the right of way free of charge.

### **Article 1054.- Amplitude of the road in the right of way**

The width of the road will be determined according to the circumstances.

### **Article 1055 until 1090.- Repealed**

## **Section four: Real security rights**

### **Title II: Antichresis**

#### **Article 1091.- Definition of antichresis.**

By antichresis a property is delivered as security for a debt, granting the creditor the right to exploit it and receive its fruits.

#### **Article 1092.- Formalities**

The contract will be granted by public deed, under penalty of nullity, stating the income of the property and the interest that is agreed.

#### **Article 1093.- Imputation of the income of the property**

The income of the property is applied to the payment of interest and expenses, and the balance to capital.

#### **Article 1094.- Obligations of the antichretic creditor.**

The creditor's obligations are the same as those of the tenant, except for paying the rent.

#### **Article 1095.- Retention of the property for another debt**

The creditor cannot retain the property for another debt, if this right was not granted.

## **Article 1096.- Applicable supplementary rules**

The rules established for the garment are applicable to the antichresis as they do not oppose those set forth in this title.

## **Title III: Mortgage**

### **Chapter one: General provisions**

#### **Article 1097.- Notion of mortgage.**

A property is affected by the mortgage as a guarantee of the fulfillment of any obligation, own or of a third party.

The guarantee does not determine the dispossession and gives the creditor the rights of pursuit, preference and judicial sale of the mortgaged property.

#### **Article 1098.- Formality of the mortgage**

The mortgage is constituted by public deed, except for a different provision of the law.

#### **Article 1099.- Mortgage validity requirements**

The requirements for the validity of the mortgage are:

- 1.- That the property is affected by the owner or whoever is authorized for that purpose in accordance with the law.
- 2.- To ensure the fulfillment of a determined or determinable obligation.
- 3.- That the lien be of a determined or determinable amount and is registered in the real property registry.

#### **Article 1100.- Real estate nature of the mortgage**

The mortgage must fall on specifically determined properties.

#### **Article 1101.- Extension of the mortgage**

The mortgage is extended to all the integral parts of the mortgaged property, to its accessories, and to the amount of the insurance and expropriation indemnities, unless otherwise agreed.

#### **Article 1102.- Indivisibility of the mortgage**

The mortgage is indivisible and subsists entirely on all the mortgaged assets.

### **Article 1103.- Mortgage on set of assets that make up an economic exploitation**

The contracting parties may consider as a single unit for the purposes of the mortgage, any economic exploitation that forms a set of assets linked or dependent on each other.

### **Article 1104.- Guarantee of future or eventual obligation**

The mortgage can guarantee a future or eventual obligation.

### **Article 1105.- Mortgage subject to modality**

The mortgage can be constituted under condition or term.

### **Article 1106.- Prohibition of mortgaging future assets**

You cannot establish a mortgage on future assets.

### **Article 1107.- Mortgage coverage**

The mortgage covers the principal, the accrued interest, the insurance premiums paid by the creditor and the costs of the lawsuit.

### **Article 1108.- Guarantee of transferable titles**

The mortgage constitution deed to guarantee transferable titles by endorsement or to the bearer, will record, in addition to the circumstances of the mortgage constitution, those related to the number and value of the titles that are issued and that guarantee the mortgage; the series or series to which they correspond; the date or dates of the issue; the term and form in which they must be amortized; the appointment of a trustee; and the others that serve to determine the conditions of said titles.

### **Article 1109.- Mortgage of several properties**

The creditor whose mortgage comprises several properties may, at his option, pursue all of them simultaneously or only one, even when they have belonged to or are owned by different people or other mortgages exist. However, the judge may, for well-founded cause, establish an order for the sale of the affected assets.

### **Article 1110.- Early fulfillment of the obligation**

If the mortgaged assets are lost or deteriorated in such a way that they are insufficient, the fulfillment of the obligation may be requested, even if the term has not expired, unless it is guaranteed to the satisfaction of the creditor.

#### **Article 1111.- Nullity of the commissary agreement**

Even if the obligation is not fulfilled, the creditor does not acquire the property of the property for the value of the mortgage. The agreement to the contrary is null.

### **Chapter Two: Range of Mortgages**

#### **Article 1112.- Mortgage Preference**

Mortgages will have preference because of their age according to the registration date, except when their rank is transferred.

#### **Article 1113.- Subsequent mortgages**

The power to encumber the property with second and subsequent mortgages cannot be waived.

#### **Article 1114.- Assignment of preferential rank**

The preferred creditor can assign his rank to another mortgagee. For the assignment to take effect against the debtor, it is required that the latter accept it or that it be reliably communicated.

### **Chapter Three: Mortgage Reduction**

#### **Article 1115.- Reduction of the amount of the mortgage**

The amount of the mortgage can be reduced by agreement between the creditor and the debtor. The reduction will only take effect against a third party after its registration in the registry.

#### **Article 1116.- Judicial reduction of the amount of the mortgage**

The mortgagor can request the judge to reduce the amount of the mortgage, if the amount of the obligation has decreased. The request is processed as an incident.

### **Chapter Four: Effects of the mortgage against third parties**

#### **Article 1117.- Personal action and real action of the creditor**

The creditor can demand payment from the debtor, for personal action; or to the third purchaser of the mortgaged asset, using the real action. The exercise of one of these actions does not exclude that of the other, nor the fact of directing it against the debtor, prevents the execution of the property that is in the power of a third party, except for a different provision of the law.

## **Chapter Five: Legal Mortgages**

### **Article 1118.- Legal mortgages**

In addition to the legal mortgages established in other laws, the following are recognized:

1. That of the property sold without its price having been fully paid or with money from a third party.
2. That of the property for whose manufacture or repair work or materials have been provided by the contractor and for the amount that the principal has been obliged to pay.
3. That of the properties acquired in a partition with the obligation to make repayments in money to other co-owners.

### **Article 1119.- Constitution and registration of legal mortgage**

The legal mortgages referred to in article 1118 are established by right and registered ex officio, under the responsibility of the registrar, simultaneously with the contracts from which they emanate.

In all other cases, the creditor's right arises from the registration of the legal mortgages in the registry. The persons in whose favor said mortgages are recognized, may demand the granting of the necessary instruments for their registration.

### **Article 1120.- Resignation and assignment of rank**

Legal mortgages are waivable and their rank can also be transferred with respect to other legal and conventional mortgages.

The resignation and assignment can be made in advance and unilaterally.

### **Article 1121.- Rules applicable to the legal mortgage**

The rules of articles 1097 to 1117 and 1122 apply to legal mortgages insofar as they are applicable.

## **Chapter Six: Extinction of the mortgage**

## **Article 1122.- Causes for termination of the mortgage**

The mortgage ends for:

1. Extinction of the obligation that guarantees.
2. Cancellation, termination or resolution of said obligation.
3. Written resignation of the creditor.
4. Total destruction of the property.
5. Consolidation.

## **Title IV: Right of Withholding**

### **Article 1123.- Right of retention**

By lien, a creditor retains the property of his debtor if his credit is not sufficiently guaranteed. This right proceeds in the cases established by law or when there is a connection between the credit and the property that is retained.

### **Article 1124.- Assets not subject to withholding**

Withholding cannot be exercised on assets that at the time of receipt are intended to be deposited or delivered to another person.

### **Article 1125.- Indivisibility of the right of retention**

The lien is indivisible . It can be exercised for all the credit or for the outstanding balance, and on all the assets that are in the possession of the creditor or on one or more of them.

### **Article 1126.- Limit and termination of the right of retention**

Withholding is exercised as soon as it is sufficient to satisfy the debt that motivates it and ceases when the debtor pays or guarantees it.

### **Article 1127.- Judicial and extrajudicial exercise of retention**

The right of retention is exercised:

- 1.- Extrajudicially, refusing the delivery of the property until the obligation for which it is invoked is fulfilled.

2.- Judicially, as an exception that opposes the action destined to obtain the delivery of the property. The judge may authorize the lien to be replaced by a sufficient security.

### **Article 1128.- Registration or preventive annotation of the right of retention**

For the lien on real estate to take effect against third parties, it must be registered in the real estate registry.

The retention right can only be exercised against the acquirer for consideration who has his property right registered, if the retention right was registered prior to the acquisition.

Regarding the properties not registered, the right of retention can be registered by means of preventive annotation extended by court order.

### **Article 1129.- Seizure and auction of the mortgaged asset**

The lien does not prevent the seizure and auction of the property, but the acquirer cannot withdraw it from the power of the retainer except by giving him the auction price, as long as it is enough to cover his credit and except for the mortgage preference that may exist.

### **Article 1130.- Nullity of the commissary agreement.**

Even if the obligation is not fulfilled, the withholder does not acquire ownership of the retained asset. The contrary agreement is void, with the exception of the cases of adjudication of the asset to the creditor agreed under the Legislative Decree that approves the Secured Transaction Regime.

### **Article 1131.- Application of the right of retention**

The rules of this title are applicable to all cases in which the law recognizes the right of retention, without prejudice to the special provisions.

## **Book VI: Obligations**

### **Section one : Obligations and their modalities**

#### **Title I: Obligations to give**

### **Article 1132.- Obligation to give true good**

The creditor of certain property cannot be forced to receive another, even if it is of greater value.

### **Article 1133.- Obligations to give certain goods**

The one obliged to give a set of certain assets will report on its status when requested by the creditor.

### **Article 1134.- Scope of the obligation to give true good**

The obligation to give also includes that of keeping the property until it is delivered.

The good must be delivered with its accessories, unless the contrary results from the law, the title of the obligation or the circumstances of the case.

### **Article 1135.- Concurrence of creditors of real estate**

When the property is immovable and various creditors to whom the same debtor has been obliged to deliver it concur, the preference is given to the creditor in good faith whose title has been first registered or, in the absence of registration, to the creditor whose title is of a previous date. In the latter case, the title consisting of a document with the oldest certain date is preferred.

### **Article 1136.- Concurrence of creditors of personal property**

If the certain asset to be delivered is movable and is claimed by various creditors to whom the same debtor had been obliged to deliver it, the creditor in good faith to whom the debtor made a tradition of it will be preferred, even if his title is of a later date. If the debtor did not make a tradition of the property, the creditor whose title is of a previous date will be preferred; prevailing, in the latter case, the title that consists of a document with the oldest certain date.

### **Article 1137.- Loss of property**

The loss of the property can occur:

1. For perishing or being useless to the creditor for partial damage.
2. For disappearing in such a way that there is no news of him or, even having them, he cannot be recovered.
3. For being out of business.

### **Article 1138.- Theory of risk in the obligations of giving good certain**

In the obligations to give certain goods, the following rules are observed until their delivery:

1.- If the asset is lost through the fault of the debtor, its obligation is resolved; but the creditor ceases to be bound by the consideration, if any, and the debtor is subject to the payment of the

corresponding compensation.

If as a result of the loss, the debtor obtains compensation or acquires a right against a third party in substitution of the due provision, the creditor may demand the delivery of such compensation or replace the debtor in the ownership of the right against the third party. In these cases, the compensation for damages is reduced by the corresponding amounts.

2.- If the property deteriorates due to the debtor's fault, the creditor may choose to resolve the obligation, or to receive the property in the state in which it is found and demand the reduction of the consideration, if any, and the payment of the corresponding compensation for damages, the provisions of the second paragraph of subsection 1 being applicable in this case. If the impairment is minor, the creditor may demand a reduction in the consideration, if applicable.

3.- If the asset is lost due to the creditor's fault, the debtor's obligation is resolved, but the debtor retains the right to the consideration, if any. If the debtor obtains any benefit with the resolution of his obligation, its value reduces the consideration paid by the creditor.

4.- If the asset deteriorates due to the creditor's fault, the creditor has the obligation to receive it in the state in which it is found, without any reduction in the consideration, if any.

5.- If the property is lost through no fault of the parties, the obligation of the debtor is resolved, with loss of the right to compensation, if any. In this case, the debtor is entitled to the rights and actions that would have remained relative to the asset.

6.- If the asset deteriorates through no fault of the parties, the debtor suffers the consequences of the deterioration, making a proportional reduction of the consideration. In this case, the debtor is entitled to the rights and actions that may cause the deterioration of the asset.

### **Article 1139.- Presumption of fault of the debtor**

It is presumed that the loss or deterioration of the property in possession of the debtor is his fault, unless proven otherwise.

### **Article 1140.- Loss of the property in obligation arising from crime or lack**

The debtor is not exempted from paying the value of the certain asset, even if it has been lost without fault, when the obligation comes from a crime or fault. This rule does not apply if the creditor has been in default.

### **Article 1141.- Conservation expenses**

Conservation costs are borne by the owner from the time the obligation is contracted until the delivery occurs. If the person who incurs them is not the person to whom they should be carried out, the owner must reimburse the amount spent, plus her interests.

#### **Article 1142.- Uncertain assets**

Uncertain goods must be indicated, at least, by their kind and quantity.

#### **Article 1143.- Rules for choosing an uncertain asset**

In the obligations to give goods determined only by their kind and quantity, the choice corresponds to the debtor, unless the contrary results from the law, the title of the obligation or the circumstances of the case.

If the choice belongs to the debtor, he must choose goods of no less than average quality. If the choice is up to the creditor, he must choose goods of no better than average quality. If the choice is made by a third party, you must choose goods of medium quality.

#### **Article 1144.- Judicial term for election**

In the absence of term for the election, it is up to the judge to fix it.

If the debtor omits to make the election within the established period or the one set by the judge, it corresponds to the creditor. The same rule applies when the choice must be made by the creditor.

If the election is entrusted to a third party and he does not make it, the judge will make it, without prejudice to the right of the parties to demand the payment of the corresponding compensation for its breach.

#### **Article 1145.- Irrevocability of the election**

The election is irrevocable after the performance of the service. The choice, communicated to the other party, or to both if it is practiced by a third party or the judge, has the same effects.

#### **Article 1146.- Effects prior to the individualization of an uncertain asset**

Before the individualization of the property, the debtor cannot exempt himself from the delivery by invoking the loss without his fault.

This rule does not apply when the choice must be made between certain assets of the same kind and all of them are lost through no fault of the debtor.

## **Article 1147.- Rules applicable after the election.**

Once the election has been made, the rules established on obligations to give certain goods apply.

## **Title II : Obligations to do**

### **Article 1148.- Term and mode of obligations to do**

The person obliged to carry out an act must comply with the provision in the agreed period and manner or, failing that, in those required by the nature of the obligation or the circumstances of the case.

### **Article 1149.- Execution of the provision by third parties**

The benefit can be executed by a person other than the debtor, unless the agreement or circumstances show that the debtor was chosen for his personal qualities.

### **Article 1150.- Options of the creditor for non-performance of obligations**

The breach of the obligation to do because of the debtor, empowers the creditor to opt for any of the following measures:

1.
  1. Demand the forced execution of the promised act, unless it is necessary to use violence against the person of the debtor.
  2. Demand that the provision be executed by a person other than the debtor and on his behalf.
  3. Cancel the obligation.

### **Article 1151.- Options of the creditor for partial, late or defective execution**

The partial, late or defective fulfillment of the obligation to do because of the debtor, allows the creditor to adopt any of the following measures:

1.
  1. Those provided for in article 1150, subsections 1 or 2.
  2. Consider the provision not executed, if it turns out to be of no use to him.
  3. Require the debtor to destroy what has been done or destroy it on his behalf, if it is detrimental to him.
  4. Accept the rendered service, demanding that the consideration be reduced, if any.

### **Article 1152.- Right of the creditor to be compensation**

In the cases provided for in articles 1150 and 1151, the creditor also has the right to demand the payment of the corresponding compensation.

### **Article 1153.- Deficient compliance without fault of the debtor**

The partial, late or defective fulfillment of the obligation to do, without fault of the debtor, allows the creditor to opt for the provisions of article 1151, paragraphs 2, 3 or 4.

### **Article 1154.- Impossibility of the provision due to the fault of the debtor**

If the provision is impossible due to the debtor's fault, his obligation is resolved, but the creditor is no longer obliged to pay the compensation, if any, without prejudice to his right to demand the payment of the corresponding compensation.

The same rule applies if the impossibility of the benefit occurs after the debtor has been set up in default.

### **Article 1155.- Impossibility of the provision due to the creditor's fault**

If the provision is impossible due to the creditor's fault, the debtor's obligation is resolved, but the debtor retains the right to the consideration, if any.

The same rule applies when the fulfillment of the obligation depends on a prior provision of the creditor and, when the impossibility arises, it would have been in default.

If the debtor obtains any benefit with the resolution of the obligation, its value reduces the consideration paid by the creditor.

### **Article 1156.- Impossibility of rendering without fault of the parties**

If the provision is impossible without fault of the parties, the obligation of the debtor is resolved. In this case, the debtor must return to the creditor what he has received due to the obligation, corresponding to him the rights and actions that would have remained related to the unfulfilled provision.

### **Article 1157.- Substitution of creditor due to negligent non-execution**

If as a consequence of the non-execution due to the fault of the debtor, he obtains compensation or acquires a right against a third party in substitution of the due provision, the creditor may demand

the delivery of such compensation or substitute the debtor in the ownership of the right against the third party. In these cases, the compensation for damages is reduced by the corresponding amounts.

### **Title III: Obligations not to do**

#### **Article 1158.- Creditor's rights due to negligent breach**

The breach by fault of the debtor of the obligation not to do, authorizes the creditor to opt for any of the following measures:

1.
  1. Demand forced execution, unless it was necessary to use violence against the person of the debtor.
  2. Demand the destruction of what was executed or destroy it on behalf of the debtor.
  3. Cancel the obligation.

#### **Article 1159.- Indemnification**

In the cases provided for by article 1158, the creditor also has the right to demand the payment of the corresponding compensation for damages.

#### **Article 1160.- Rules applicable to obligations not to do**

They are applicable to the obligations not to make the provisions of articles 1154, first paragraph, 1155, 1156 and 1157.

### **Title IV: Alternative and optional obligations**

#### **Article 1161.- Alternative benefits**

The alternatively obliged to various benefits, must only fully comply with one of them.

#### **Article 1162.- Rules for choosing alternative benefits**

The choice of the benefit corresponds to the debtor, if this power has not been attributed to the creditor or a third party.

Whoever must make the choice may not choose part of one service and part of another.

The rules of article 1144 are applicable to these cases.

### **Article 1163.- Ways to make the election**

The election is made with the execution of one of the benefits, or with the declaration of the election, communicated to the other party, or both if it is performed by a third party or the judge.

### **Article 1164.- Election in obligation of periodic benefits**

When the alternative obligation consists of periodic benefits, the choice made for one period requires the following, unless the contrary results from the law, the title of the obligation or the circumstances of the case.

### **Article 1165.- Rules of impossibility of benefits chosen by debtor**

When the choice corresponds to the debtor, the impossibility of one or more benefits is governed by the following rules:

1.
  1. If all the benefits are impossible for reasons attributable to the debtor, the obligation is resolved and the debtor must return the consideration to the creditor, if any, and must also pay the corresponding compensation for damages and losses related to the last service that was impossible.
  2. If some benefits are impossible, the debtor chooses among those that remain.
  3. If all benefits are impossible for reasons not attributable to the debtor, the obligation is extinguished.

### **Article 1166.- Rules of impossibility of benefits chosen by creditor, third party or judge**

When the choice corresponds to the creditor, a third party or the judge, the impossibility of one or more benefits is governed by the following rules:

1.
  1. If all the benefits are impossible for reasons attributable to the debtor, the obligation is resolved and the debtor must return the consideration to the creditor, if any, and must also pay the corresponding compensation for damages and losses related to the impossible benefit indicated by the creditor.
  2. If some benefits are impossible for reasons attributable to the debtor, the creditor can choose one of the remaining ones; provide, when appropriate, that the third party or the judge choose it; or declare the obligation resolved. In the latter case, the debtor will return the consideration to the creditor, if any, and will pay the corresponding

compensation for damages and losses related to the impossible provision that the creditor indicates.

3. If some benefits are impossible through no fault of the debtor, the choice is made between the remaining ones.
4. If all benefits are impossible through no fault of the debtor, the obligation is extinguished.

#### **Article 1167.- Simple alternative obligation**

The alternative obligation is considered simple if all benefits, except one, are null or impossible to fulfill for reasons not attributable to the parties.

#### **Article 1168.- Optional obligation.**

The optional obligation is determined solely by the main provision that forms the object of it.

#### **Article 1169.- Extinction of optional obligation**

The optional obligation is extinguished when the main provision is null or impossible, even if the accessory provision is valid or possible to fulfill.

#### **Article 1170.- Conversion of optional obligation into simple**

The optional obligation becomes simple if the ancillary provision is null or impossible to fulfill.

#### **Article 1171.- Presumption of optional obligation**

In case of doubt about whether the obligation is alternative or optional, it is considered optional.

### **Title V: Divisible and indivisible obligations**

#### **Article 1172.- Division of debts and credits**

If there are several creditors or debtors of a divisible benefit and the obligation is not joint and several, each of the creditors can only request the satisfaction of the part of the credit that corresponds to them, while each of the debtors is only obligated to pay your share of the debt.

#### **Article 1173.- Presumption of division into aliquots**

In divisible obligations, the credit or debt is presumed divided into as many equal parts as there are creditors or debtors, claiming credits or debts that are different and independent of each other, unless

the contrary results from the law, from the title of the obligation or from the circumstances of the case.

#### **Article 1174.- Unavailability of the benefit of division**

The benefit of the division cannot be opposed by the heir of the debtor in charge of fulfilling the provision, by whoever is in possession of the thing due or by whoever acquires the asset that guarantees the obligation.

#### **Article 1175.- Indivisible Obligations**

The obligation is indivisible when it is not susceptible to division or partial fulfillment by mandate of the law, by the nature of the provision or by the way it was considered when it was established.

#### **Article 1176.- Rights of the creditor of undivided obligation**

Any of the creditors can demand from any of the debtors the total execution of the indivisible obligation. The debtor is released by paying jointly to all creditors, or to any of them, if the latter guarantees to the others the reimbursement of the part that corresponds to them in the obligation.

#### **Article 1177.- Effects of Indivisibility**

Indivisibility also operates with regard to the heirs of the creditor or the debtor.

#### **Article 1178.- Consolidation between the creditor and one of the debtors**

Consolidation between the creditor and one of the debtors does not extinguish the obligation with respect to the other co-debtors. The creditor, however, can only demand the benefit by reimbursing the co-debtors the value of the part that corresponded to him in the obligation or by guaranteeing reimbursement.

#### **Article 1179.- Novation between debtor and one of the creditors**

The novation between the debtor and one of the creditors does not extinguish the obligation with respect to the other co-creditors. These, however, cannot demand the indivisible benefit except by reimbursing the debtor the value of the part of the original benefit corresponding to the creditor who made no mistake or by guaranteeing reimbursement.

The same rule applies in offset, forgiveness, consolidation, and transaction cases.

#### **Article 1180.- Conversion of an indivisible obligation into an obligation to compensate**

The indivisible obligation is resolved in the one to compensate damages and losses. Each of the debtors is bound by the full compensation, except for those who have been willing to comply, who will only contribute to the compensation with the portion of the value of the benefit that corresponds to them.

### **Article 1181.- Rules applicable to indivisible obligations**

Indivisible obligations are further governed by articles 1184, 1188, 1192, 1193, 1194, 1196, 1197, 1198, 1199, 1203 and 1204.

If the indivisible obligation is joint and several, the rules of solidarity apply, as well as the provisions of article 1177.

## **Title VI: Joint and several obligations**

### **Article 1182.- Legal regime of joint obligations**

Joint obligations are governed by the rules of divisible obligations.

### **Article 1183.- Express nature of solidarity**

Solidarity is not presumed. Only the law or the title of the obligation expressly establishes it.

### **Article 1184.- Modalities of the joint and several obligation**

Solidarity is not excluded by the circumstance that each of the debtors is bound by different modalities before the creditor, or that the common debtor is bound by different modalities before the creditors.

However, in the case of conditions or suspensive terms, the fulfillment of the obligation affected by them may not be required until the condition is met or the term expires.

### **Article 1185.- Payment of the debtor to one of the joint creditors**

The debtor may make the payment to any of the joint creditors, even if he had been sued only by one.

### **Article 1186.- Enforceability of debt in case of passive solidarity**

The creditor can go against any of the joint and several debtors or against all of them simultaneously.

Claims filed against one will not be an obstacle for those subsequently directed against others, as long as the debt is not paid in full.

### **Article 1187.- Transmission of joint and several obligation**

If one of the joint debtors dies, the debt is divided between the heirs in proportion to their respective shares in the inheritance.

A similar rule applies in the event of the death of one of the joint creditors.

### **Article 1188.- Extinction of solidarity**

The novation, compensation, forgiveness or transaction between the creditor and one of the joint debtors on the entire obligation, releases the other co-debtors.

In these cases, the relationships between the debtor who performed such acts and his co-debtors are governed by the following rules:

1. In the novation, the co-debtors respond, at their choice, for their part in the original obligation or for the proportion that would have corresponded to them in the new obligation.
2. In compensation, the co-debtors answer for their part.
3. In the cancellation, the obligation of the co-debtors is extinguished.
4. In the transaction, the co-debtors are liable, at their choice, for their part in the original obligation or for the proportion that would have corresponded to them in the benefits resulting from the transaction.

### **Article 1189.- Partial extinction of solidarity**

If the acts indicated in the first paragraph of article 1188 had been limited to the part of only one of the debtors, the others are not released except for said part.

### **Article 1190.- Total or partial extinction of the solidarity between the debtor and one of the creditors**

When the acts referred to in article 1188 are carried out between the debtor and one of the joint creditors over the entire obligation, it is extinguished with respect to the other co-creditors. The creditor who has carried out any of these acts, as well as the one who collects the debt, will respond to the others for the part that corresponds to them in the original obligation.

If such acts had been limited to the part that corresponds to only one of the creditors, the obligation is extinguished only with respect to said part.

### **Article 1191.- Partial extinction of the solidarity by consolidation**

The consolidation operated in one of the creditors or joint debtors only extinguishes the obligation in the part corresponding to the creditor or the debtor.

### **Article 1192.- Exceptions opposable to creditors or joint debtors**

Only exceptions that are personal to them and those common to all creditors or debtors can be opposed to each of the creditors or joint debtors.

### **Article 1193.- Effects of the judgment between creditors and debtors.**

The sentence pronounced in the trial between the creditor and one of the joint debtors, or between the debtor and one of the joint and several creditors, has no effect against the other co-debtors or co-creditors, respectively.

However, the other debtors can oppose it to the creditor, unless it is based on the personal relationships of the debtor who litigated. In turn, the other creditors can assert it against the debtor, except for the personal exceptions that the debtor may oppose to each of them.

### **Article 1194.- Delay in solidarity obligations**

The constitution in default of one of the debtors or joint creditors has no effect on the others.

The establishment in arrears of the debtor by one of the joint creditors, or of the creditor by one of the joint debtors, favors the others.

### **Article 1195.- Effects of the culpable breach of one or more co-debtors**

The breach of the obligation due to causes attributable to one or more co-debtors, does not release the others from the obligation to pay jointly and severally the value of the due provision.

The creditor may request compensation for damages from the co-debtor or jointly and severally from the co-debtors responsible for the breach.

### **Article 1196.- Effects of the interruption of the prescription**

The acts by which the creditor interrupts the prescription against one of the joint debtors, or one of the joint creditors interrupts the prescription against the common debtor, have effect with respect to the other debtors or creditors.

### **Article 1197.- Effects of suspension of the prescription**

The suspension of the prescription with respect to one of the joint debtors or creditors has no effect on the others.

However, the debtor forced to pay may repeat against the co-debtors, even when they have been released by prescription. And, in turn, the creditor who collects, with respect to which the prescription has been suspended, responds to his co-creditors for the part that corresponds to them in the obligation.

### **Article 1198.- Effects of waiver of prescription**

The waiver of the prescription by one of the joint co-debtors has no effect with respect to the others. The debtor who had renounced the prescription, cannot repeat against the co-debtors released by prescription.

The waiver of the prescription in favor of one of the joint creditors favors the others.

### **Article 1199.- Acknowledgment of debt by a joint and several debtor**

The recognition of the debt by one of the joint debtors, does not produce effect with respect to the other co-debtors.

If recognition is practiced by the debtor before one of the joint creditors, it favors the others.

### **Article 1200.- Renunciation of the creditor to solidarity in favor of a debtor**

The creditor who renounces solidarity in favor of one of the debtors, retains the joint action against the others.

The creditor who grants receipt to one of the debtors or who takes legal action against him, for his part and without reservation, renounces solidarity.

### **Article 1201.- Proration of insolvency of a co-debtor**

If the creditor renounces solidarity with respect to one of the debtors, and one of the others is insolvent, the part of the latter is distributed pro rata among all the co-debtors, including the one who was released from solidarity.

### **Article 1202.- Loss of joint action**

The creditor who, without reservation, receives from one of the joint debtors part of the fruits or interest owed, loses the joint action against him for the balance, but keeps it in terms of future fruits or interests.

### **Article 1203.- Presumption of equality in division of joint and several obligation**

In internal relations, the joint and several obligation is divided between the various debtors or creditors, unless it has been contracted in the exclusive interest of one of them.

The portions of each of the debtors or, where appropriate, of the creditors, are presumed equal, except that the contrary results from the law, the title of the obligation or the circumstances of the case.

### **Article 1204.- Insolvency of co-debtor**

If any of the co-debtors is insolvent, their portion is distributed among the others, according to their interests in the obligation.

If the co-debtor in whose exclusive interest the obligation was assumed is insolvent, the debt is distributed equally among the others.

## **Title VII: Acknowledgment of obligations**

### **Article 1205.- Formality in the recognition of obligations**

The recognition can be made by will or by act between living. In the latter case, if a certain form had been prescribed to constitute the original obligation, the recognition must be practiced in the same way.

## **Title VIII: Transfer of obligations**

### **Sole Chapter: Assignment of Rights**

### **Article 1206.- Transfer of rights**

The assignment is the act of disposition by virtue of which the assignor transmits to the assignee the right to demand the provision at the expense of his debtor, who has been obliged to transfer by a different title.

The assignment can be made even without the consent of the debtor.

### **Article 1207.- Formality of assignment of rights**

The assignment must be in writing, under penalty of nullity.

When the act or contract that constitutes the title of the transfer of the right is in writing, this document serves as proof of the transfer.

### **Article 1208.- Rights that may be assigned**

Rights that are the subject of judicial, arbitral or administrative controversy may be assigned.

### **Article 1209.- Assignment of the right to participate in hereditary patrimony.**

The right to participate in a hereditary patrimony already caused may also be transferred, the transferor being obliged to guarantee his status as heir.

### **Article 1210.- Ineffectiveness of the Assignment**

The assignment cannot be made when it opposes the law, the nature of the obligation or the pact with the debtor.

The agreement that prohibits or restricts the assignment is enforceable against the assignee in good faith, if it consists of the instrument by which the obligation was constituted or it is proven that the assignee knew it at the time of the assignment.

### **Article 1211.- Scope of the assignment of rights**

The transfer of rights includes the transfer to the assignee of the privileges, the real and personal guarantees, as well as the accessories of the transferred right, unless otherwise agreed.

In the case of an asset pledged, it must be delivered to the assignee if it were in the hands of the assignor, but not if it were in the power of a third party.

### **Article 1212.- Guarantee of the assigned right**

The transferor is obliged to guarantee the existence and enforceability of the assigned right, unless otherwise agreed.

### **Article 1213.- Guarantee of the debtor's solvency**

The assignor is not obliged to guarantee the solvency of the debtor, but if he does, he responds within the limits of what he has received and is obliged to pay interest and reimburse the expenses of the assignment and those that the assignee may have. made to execute the debtor, unless otherwise agreed.

#### **Article 1214.- Legal assignment**

When the assignment operates by operation of law, the assignor is not responsible for its reality, nor for the solvency of the debtor.

#### **Article 1215.- Beginning of the effects of the assignment**

The assignment takes effect against the assigned debtor as soon as he accepts it or is reliably communicated to him.

#### **Article 1216.- Exception of the debtor's release due to performance of the provision**

The debtor who, before the communication or acceptance, fulfills the service with respect to the assignor, is not released before the assignee if the latter proves that said debtor knew of the assignment made.

#### **Article 1217.- Repealed**

### **Second section : Effects of obligations**

#### **Title I: General provisions**

#### **Article 1218.- Transmissibility of the obligation**

The obligation is transmitted to the heirs, except when it is inherent to the person, prohibited by law or otherwise agreed.

#### **Article 1219.- Rights and actions of the creditor as an effect of the obligations**

It is the effect of the obligations to authorize the creditor for the following:

- 1.- Employ legal measures so that the debtor procures what he is obliged to do.
- 2.- Procure the benefit or have it procured by another, at the expense of the debtor.
- 3.- Obtain the corresponding compensation from the debtor.

4.- To exercise the rights of the debtor, whether in action or to assume his defense, with the exception of those that are inherent to the person or when prohibited by law. In order to exercise the rights mentioned in this subsection, the creditor does not need to obtain prior judicial authorization, but must have his debtor summoned in the lawsuit he promotes.

It is possible to simultaneously exercise the rights provided for in this article, except in the cases of paragraphs 1 and 2.

## **Title II: Payment**

### **Chapter one: General provisions**

#### **Article 1220.- Notion of payment**

Payment is understood to have been made only when the provision has been fully executed.

#### **Article 1221.- Indivisibility of payment**

The creditor cannot be compelled to partially receive the provision that is the subject of the obligation, unless the law or the contract authorizes it.

However, when the debt has a liquid part and an illiquid part, the creditor can demand the payment of the first, without waiting for the second to be settled.

#### **Article 1222.- Payment made by a third party**

Any person can make the payment, whether or not they have an interest in complying with the obligation, whether with the assent of the debtor or without it, unless the agreement or its nature prevents it.

Whoever pays without the assent of the debtor, can only demand the restitution of that in which the payment would have been useful.

#### **Article 1223.- Legal aptitude to make the payment**

The payment of whoever is in legal capacity to make it is valid.

However, who in good faith received in payment goods that are consumed by the use or money of those who could not pay, is only obliged to return what they had not consumed or spent.

#### **Article 1224.- Legal aptitude to receive payment.**

Only the payment made to the creditor or the one designated by the judge, by law or by the creditor himself is valid, unless, made to an unauthorized person, the creditor ratifies it or takes advantage of it.

#### **Article 1225.- Payment to a person with the right to collect.**

The obligation is extinguished by the payment made to a person who is in possession of the right to collect, even if later possession is taken away or it is declared that he did not have it.

#### **Article 1226.- Presumption of authorization to collect**

The bearer of a receipt is deemed authorized to receive payment, unless circumstances preclude admitting this presumption.

#### **Article 1227.- Payment to the Incapable**

The payment made to the incapacitated without the consent of their legal representatives does not extinguish the obligation. If it is proven that the payment was useful for the incapacitated person, the obligation in the part paid is extinguished.

#### **Article 1228.- Ineffectiveness of payment**

The payment made by the debtor after being notified by the court so that it does not verify it, does not extinguish the obligation.

#### **Article 1229.- Proof of payment**

Proof of payment rests with whoever claims to have made it.

#### **Article 1230.- Withholding of payment**

The debtor can withhold the payment as long as the corresponding receipt is not granted.

In the case of debts whose receipt is the return of the title, if it has been lost, whoever is able to verify the payment may retain it and demand from the creditor the judicial declaration that renders the lost title useless.

#### **Article 1231.- Presumption of full payment**

When the payment must be made in periodic installments, the receipt of one or the last, if applicable, presumes the payment of the previous ones, unless proven otherwise.

### **Article 1232.- Presumption of payment of interest**

The receipt of payment of the capital granted without reserve of interest, presumes the payment of these, unless proven otherwise.

### **Article 1233.- Payment with securities**

The delivery of securities that constitute payment orders or promises will only extinguish the original obligation when they have been paid or when they have been harmed by the creditor, unless otherwise agreed.

Meanwhile, the action derived from the original obligation will be suspended.

### **Article 1234.- Ineligibility of payment in a different currency**

The payment of a debt contracted in national currency may not be required in a different currency, or in an amount different from the nominal amount originally agreed.

### **Article 1235.- Value theory**

However, what is established in article 1234, the parties may agree that the amount of a debt contracted in national currency be referred to automatic readjustment rates set by the Central Reserve Bank of Peru, to other currencies or to merchandise, in order to keep said amount in constant value.

The payment of the debts referred to in the previous paragraph will be made in national currency, in an amount equivalent to the reference value, on the day the obligation expires.

If the debtor delays payment, the creditor may demand, at his option, that the debt be paid at the reference value on the day the obligation expires or the day the payment is made.

### **Article 1236.- Calculation of the payment value**

When the value of a benefit must be restored, that is calculated to the one it has on the day of payment, unless different legal provision or agreement to the contrary.

### **Article 1237.- Debt contracted in foreign currency**

Obligations in foreign currency not prohibited by special laws can be arranged.

Unless otherwise agreed, the payment of a debt in foreign currency can be made in national currency at the sale exchange rate of the day and place of maturity of the obligation.

In the case referred to in the preceding paragraph, if there is no agreement to the contrary regarding the currency of payment and the debtor delays the payment, the creditor may demand, at his choice, that the payment in national currency be made at the sale exchange rate on the expiration date of the obligation, or at the rate governing the day of payment.

#### **Article 1238.- Place of payment**

Payment must be made at the debtor's domicile, unless otherwise stipulated, or if this results from the law, the nature of the obligation or the circumstances of the case.

Designated several places for payment, the creditor can choose any of them. This rule applies with respect to the debtor, when the payment must be made at the creditor's domicile.

#### **Article 1239.- Change of domicile of the parties.**

If the debtor changes his domicile, having been designated as the place for payment, the creditor may demand it in the first or in the new domicile.

The same rule applies, with respect to the debtor, when the payment must be verified at the creditor's domicile.

#### **Article 1240.- Term for payment**

If there is no designated term, the creditor may demand payment immediately after the obligation is contracted.

#### **Article 1241.- Payment expenses**

The expenses incurred by the payment are borne by the debtor.

### **Chapter Two: Payment of Interest**

#### **Article 1242.- Compensatory interest and moratorium**

Interest is compensatory when it constitutes the consideration for the use of money or any other good.

It is a moratorium when its purpose is to compensate the delay in payment.

### **Article 1243.- Maximum conventional interest rate**

The maximum conventional compensatory or default interest rate is set by the Central Reserve Bank of Peru.

Any excess over the maximum rate gives rise to the return or the charge to capital, at the debtor's will.

### **Article 1244.- Legal interest rate**

The legal interest rate is set by the Central Reserve Bank of Peru.

### **Article 1245.- Payment of legal interest in the absence of an agreement**

When interest must be paid, without having fixed the rate, the debtor must pay the legal interest.

### **Article 1246.- Payment of interest for late payment**

If the default interest has not been agreed, the debtor is only obliged to pay the agreed compensatory interest due to default and, failing that, the legal interest.

### **Article 1247.- Interests in non-pecuniary obligations**

In the non-pecuniary obligation, the interest is set according to the value of the goods subject to the obligation in the place where it must be paid the day after expiration, or with which the experts determine if the property has perished at the time of being made. the evaluation.

### **Article 1248.- Interests in obligations consisting of securities.**

When the obligation consists of securities, the interest is equal to the income accrued or, in the absence of it, the legal interest. In the latter case, the value of the securities is determined according to their listing on the stock market or, failing that, by the value they have in the market on the day following their expiration date.

### **Article 1249.- Limitation to anatocism**

The capitalization of interest cannot be agreed upon at the time the obligation is contracted, except in the case of commercial, bank or similar accounts.

### **Article 1250.- Validity of the interest capitalization agreement**

The interest capitalization agreement entered into in writing after the obligation has been contracted is valid, provided that there is no less than one year late in the payment of interest.

### **Chapter Three: Payment by consignment**

#### **Article 1251.- Consignment and budgets of origin**

The debtor is released from his obligation if he consigns the due provision and the following requirements are met:

1. That the debtor has offered the creditor the payment of the due provision, or has made it available to him in the manner agreed in the title of the obligation.
2. That, with respect to the creditor, the assumptions of Article 1338 concur or have unjustifiably refused to receive payment. It is understood that there is a tacit refusal in cases of evasive responses, of non-concurrence at the agreed place on the day and time indicated for compliance, when a receipt or similar conduct is refused.

#### **Article 1252.- Judicial or extrajudicial consignment**

The offer can be judicial or extrajudicial.

It is judicial in the cases that have been so agreed and also: when the way to make the payment was not established contractually or legally, when for reasons that are not attributable to the debtor is prevented from fulfilling the provision in the manner provided, when the creditor does not carry out the necessary acts of collaboration so that the debtor can fulfill that which is incumbent upon him, when the creditor is not known or is uncertain, when his address is unknown, when he is absent or is a person referred to in article 43 or 44 of the Civil Code without having a representative, curator or designated support, when the credit is disputed or is claimed by several creditors and in similar situations that prevent the debtor from offering or directly making a valid payment.

The extrajudicial offer must be made in the manner in which the obligation was agreed and, failing that, by means of a notarized letter sent to the creditor with an anticipation of no less than five days prior to the due date of compliance, if determined. If it is not, the anticipation must be ten days prior to the compliance date indicated by the debtor.

#### **Article 1253.- Judicial offer of payment, consignment and opposition**

The judicial offer of payment and the consignment are processed as a non-contentious process in the manner established by the Civil Procedure Code.

The opposition to the extrajudicial offer and, where appropriate, to the consignment made, are processed in the contentious process that corresponds to the nature of the respective legal

relationship.

### **Article 1254.- Validity of the payment with retroactive effect**

The payment is considered valid retroactively to the offer date, when:

1. The creditor does not oppose the judicial offer within the five days following its summons;
2. The creditor's opposition to payment for any of the forms of offering is rejected by resolution with res judicata authority.

The judicial offer is understood to have been made on the day the creditor is validly summoned. The extrajudicial action is understood to have taken place the day it is made known.

### **Article 1255.- Withdrawal of the payment offer**

The debtor can withdraw from the payment offered and, where appropriate, withdraw the deposit made, in the following cases:

1. Before acceptance by the creditor.
2. When there is opposition, as long as it is not dismissed by resolution with res judicata authority.

## **Chapter Four: Imputation of payment**

### **Article 1256.- Imputation of payment by the debtor**

Who has several obligations of the same nature constituted by fungible and homogeneous benefits, in favor of a single creditor, can indicate at the time of making the payment, or, in any case, before accepting the receipt issued by the creditor, to which of them apply this one. Without the consent of the creditor, the partial payment or an illiquid or unexpired debt will not be imputed.

### **Article 1257.- Order of the conventional imputation**

Who owes capital, expenses and interests, cannot, without the consent of the creditor, apply the payment to the capital before, to the expenses, nor to these before the interests.

### **Article 1258.- Imputation by creditor**

When the debtor has not indicated to which of the debts the payment should be attributed, but had accepted receipt from the creditor applying it to any of them, he cannot claim against this imputation, unless there is cause that prevents it from being practiced.

## **Article 1259.- Legal imputation**

Not expressing to which debt the imputation should be made, the payment is applied to the least guaranteed; among several equally guaranteed debts, to the most onerous for the debtor; and among several equally guaranteed and onerous debts, to the oldest. If these rules cannot be applied, the imputation will be made proportionally.

### **Chapter Five: Payment with Subrogation**

## **Article 1260.- Legal subrogation.**

Surrogacy operates in its own right in favor of:

1. Who pays a debt to which he was obligated, indivisibly or jointly, with another or others.
2. Of whom, by having a legitimate interest, fulfills the obligation.
3. Of the creditor who pays the debt of the common debtor to another creditor who is preferred to him.

## **Article 1261.- Conventional subrogation.**

Conventional surrogacy takes place:

1. When the creditor receives payment from a third party and substitutes his rights.
2. When the third party not interested in the obligation pays with the express or tacit approval of the debtor.
3. When the debtor pays with a benefit that he has received in mutual and subrogates to the mutual in the rights of the creditor, provided that the mutual contract has been concluded by a document of a certain date, stating such purpose in said contract and expressing its origin at the time to make the payment.

## **Article 1262.- Effects of subrogation.**

The subrogation replaces the subrogated in all the rights, actions and guarantees of the former creditor, up to the amount of what he would have paid.

## **Article 1263.- Effects of subrogation on joint and several or indivisible obligations**

In the cases of article 1260, subsection 1, the subrogate is authorized to exercise the creditor's rights against his co-debtors, only until the concurrence of the part for which each of them was obliged to contribute to the payment of the debt, applying, however, the rules of article 1204.

### **Article 1264.- Partial subrogation.**

If the subrogated instead of the creditor is only partially so, and the debtor's assets are not enough to pay the remaining part that corresponds to the creditor and that of the subrogated, both will concur with equal rights for the portion that is owed to them respectively.

## **Chapter Six: Dation in Payment**

### **Article 1265.- Notion**

The payment is made when the creditor receives as a total or partial cancellation a service different from the one that should have been fulfilled.

### **Article 1266.- Rules applicable to dation in payment**

If the amount for which the creditor receives the good in payment is determined, his relations with the debtor are regulated by the rules of the sale.

## **Chapter Seven: Improper Payment**

### **Article 1267.- Undue payment due to error of fact or law**

Anyone who, due to an error in fact or in law, gives someone else some good or amount in payment, may demand restitution from the person who received it.

### **Article 1268.- Undue payment received in good faith**

Whoever, believing in good faith that the payment was made on behalf of a legitimate and subsisting credit, had disabled the title, limited or canceled the guarantees of his right or allowed the action to be prescribed by the true debtor is exempt from the obligation. The person who unduly paid may only be directed against the true debtor.

### **Article 1269.- Undue payment received in bad faith**

The person who accepts an undue payment, if he has proceeded in bad faith, must pay the legal interest in the case of capital or the fruits received or that he should have received when the good received produced them, from the date of the undue payment.

In addition, he is responsible for the loss or deterioration suffered by the property for any reason, and for the damages caused to the person who delivered it, until it is recovered.

You can be released from this responsibility, if you prove that the non-imputable cause would have affected the property in the same way if it had been in the power of the person who delivered it.

#### **Article 1270.- Alienation of the property received as an undue payment in bad faith.**

If the person who accepts an undue payment in bad faith, transfers the property to a third party who also acts in bad faith, the person who made the payment may demand restitution, and both, jointly and severally, compensation for damages.

In the event that the alienation had been for consideration but the third party had acted in good faith, the person who received the undue payment must return the value of the asset, plus compensation for damages.

If the sale was made free of charge and the third party proceeded in good faith, the person who made the undue payment may demand the return of the asset. In this case, however, only the person who received the undue payment in bad faith is liable to pay the corresponding compensation for damages.

#### **Article 1271.- Restitution of interest or fruits for undue payment in good faith**

Anyone who in good faith accepts an undue payment must restore the interest or fruits received and is responsible for the loss or deterioration of the asset as soon as it has been enriched by them.

#### **Article 1272.- Restitution of interests or fruits**

If the person who accepts an undue payment in good faith, had sold the property to a third party who also had good faith, he will restore the price or assign the share to make it effective.

If the property had been transferred to a third party free of charge, or the third party, the acquirer for consideration, had acted in bad faith, whoever pays unduly may demand restitution. In these cases, only the third party, a free or onerous purchaser, who acted in bad faith, will be obliged to compensate the damages incurred.

#### **Article 1273.- Burden of proof of error**

It is the responsibility of the person who claims to have made the payment to prove the error with which he did it, unless the defendant denied having received the property that is claimed. In this case, justified by the plaintiff delivery, he is relieved of all other evidence. This does not limit the defendant's right to prove that he was owed what he is supposed to have received.

However, it is presumed that there was an error in the payment when a benefit that was never due or that was already paid is fulfilled. The person from whom the return is requested can prove that the delivery was made as a matter of liberality or for other justified reasons.

#### **Article 1274.- Prescription of the action for undue payment**

The action to recover the unduly paid prescribes five years after the payment was made.

#### **Article 1275.- Inadmissibility of repetition**

There is no repetition of what was paid by virtue of a prescribed debt, or to fulfill moral or social solidarity duties or to obtain an immoral or illicit purpose.

What is paid to obtain an immoral or illegal purpose corresponds to the institution in charge of family welfare.

#### **Article 1276.- Rules of undue payment for obligations to do and not to do**

The rules of this chapter apply, insofar as they are pertinent, to the obligations to do in which it is not appropriate to restore the benefit and to the obligations not to do.

In such cases, whoever accepts the undue payment in good faith, is only obliged to compensate that in which he had benefited, if it proceeds in bad faith, he is obliged to return the full value of the benefit, plus the corresponding compensation for damages and damages.

### **Title III: Novation**

#### **Article 1277.- Definition: requirements**

The novation replaces one obligation with another.

In order for there to be novation, it is necessary that the will to novar is undoubtedly manifested in the new obligation, or that the existence of the previous one is incompatible with the new one.

#### **Article 1278.- Objective novation**

There is objective novation when the creditor and the debtor substitute the original obligation for another, with a different benefit or with a different title.

#### **Article 1279.- Acts that do not constitute novation**

The issuance of securities or their renewal, the modification of a term or the place of payment, or any other accessory change of the obligation, do not produce novation.

#### **Article 1280.- Active subjective novation**

In the novation due to change of creditor, in addition to the agreement between the creditor who is replaced and the replaced one, the assent of the debtor is required.

#### **Article 1281.- Subjective novation by delegation**

The novation by delegation requires, in addition to the agreement between the debtor to be replaced and the replaced, the agreement of the creditor.

#### **Article 1282.- Novation by expromision**

The novation by ex-commitment can be carried out even against the will of the original debtor.

#### **Article 1283.- Non-transferability of guarantee to the new obligation**

In the novation, the guarantees of the extinguished obligation are not transferred to the new obligation, unless otherwise agreed.

However, in novation by delegation, the obligation is enforceable against the original debtor and his guarantors, in the event that the insolvency of the new debtor had been prior and public, or known to the debtor when delegating his debt.

#### **Article 1284.- Novation of obligation subject to suspensive condition**

When a pure obligation becomes another subject to a suspensive condition, there will only be novation if the condition is met, unless otherwise agreed.

The same rules apply if the old obligation was subject to suspensive condition and the new one was pure.

#### **Article 1285.- Novation of obligation subject to resolution condition**

When a pure obligation becomes another subject to a resolutive condition, novation operates, unless otherwise agreed.

The same rules apply if the old obligation was subject to a resolutive condition and the new one was pure.

### **Article 1286.- Novation of null or voidable obligation**

If the original obligation were null, there is no novation.

If the original obligation is voidable, the novation is valid if the debtor, knowing the defect, assumes the new obligation.

### **Article 1287.- Nullity or voidability of the new obligation**

If the new obligation is declared null or void, the original obligation revives, but the creditor will not be able to use the guarantees provided by third parties.

## **Title IV: Compensation**

### **Article 1288.- Extinction of the obligation for compensation**

By compensation, reciprocal, liquid, enforceable obligations and fungible and homogeneous benefits are extinguished, as far as they respectively reach, since they have been opposed to each other. Compensation does not operate when the creditor and the debtor exclude it by mutual agreement.

### **Article 1289.- Opposition of compensation**

Compensation may be opposed by agreement between the parties, even when the requirements set forth in article 1288 are not met. The requirements for such compensation may be previously established.

### **Article 1290.- Prohibition of compensation**

Compensation is prohibited:

1. In the restitution of assets of which the owner has been stripped.
2. In the restitution of goods deposited or delivered on loan.
3. Of the unattachable credit.
4. Between individuals and the State, except in cases permitted by law.

### **Article 1291.- Opposition of the compensation by the guarantor**

The guarantor can oppose the compensation of what the creditor owes the debtor.

### **Article 1292.- Unavailability of compensation**

The debtor who has consented to the creditor assigning his right to a third party, cannot oppose the latter with the compensation that he could have brought against the assignor.

#### **Article 1293.- Legal imputation of compensation**

When a person has several compensable debts with respect to other debts, and does not declare when opposing the compensation to which he imputes, the provisions of article 1259 will be observed.

#### **Article 1294.- Intangibility of the rights acquired as a result of compensation.**

The compensation does not affect the rights acquired on any of the credits.

### **Title V: Condonation**

#### **Article 1295.- Extinction of obligation by forgiveness**

In any case, if the cancellation of the debt made by mutual agreement between the creditor and the debtor is proven, the obligation is extinguished, without prejudice to the right of a third party.

#### **Article 1296.- Effects of the cancellation of one of the guarantors**

The forgiveness of one of the guarantors does not extinguish the obligation of the principal debtor, nor that of the other guarantors.

The cancellation made to one of the guarantors without the consent of the others benefits all, up to the extent of the part of the guarantor in whose favor it was made.

#### **Article 1297.- Debt forgiveness.**

There is forgiveness of the debt when the creditor delivers to the debtor the original document in which it consists, unless the debtor proves that he has paid it.

#### **Article 1298.- Presumption of forgiveness of the pledge**

The pledge held by the debtor presumes its voluntary return, unless proven otherwise.

#### **Article 1299.- Condonation of the pledge.**

The voluntary return of the pledge determines the forgiveness of the same, but not the debt.

### **Title VI: Consolidation**

### **Article 1300.- Total or partial consolidation**

Consolidation may occur with respect to all or part of the obligation.

### **Article 1301.- Effects of the cessation of consolidation**

If the consolidation ceases, the separation of the creditor and debtor qualities together in the same person is restored.

In this case, the extinguished obligation is reborn with all its accessories, without prejudice to the rights of third parties.

## **Title VII: Transaction**

### **Article 1302.- Notion**

For the transaction, the parties, making reciprocal concessions, decide on a doubtful or litigious matter, avoiding the lawsuit that could be promoted or ending the one that is initiated.

With reciprocal concessions, you can also create, regulate, modify or terminate relationships other than those that have been the subject of controversy between the parties.

The transaction has res judicata value.

### **Article 1303.- Content of the transaction**

The transaction must contain the waiver of the parties to any action that one may have against the other regarding the object of said transaction.

### **Article 1304.- Formality of the transaction**

The transaction must be made in writing, under penalty of nullity, or at the request of the judge hearing the litigation.

### **Article 1305.- Tradable rights**

Only economic rights can be transacted.

### **Article 1306.- Transaction of civil liability**

You can compromise on civil liability arising from crime.

### **Article 1307.- Transaction of the absent or incapable person**

The representatives of absent or incapable persons may compromise with the approval of the judge, who for this purpose will hear the Public Ministry and the family council when there is one and it deems it appropriate.

### **Article 1308.- Transaction of null or voidable obligation**

If the doubtful or litigious obligation is null, the transaction will suffer from nullity. If it is voidable and the parties, knowing the vice, celebrate it, the transaction is valid.

### **Article 1309.- Transaction on nullity or voidability of obligation subject to litigation**

If the doubtful or litigious question is about the nullity or voidability of the obligation, and the parties expressly state so, the transaction will be valid.

### **Article 1310.- Indivisibility of the transaction**

The transaction is indivisible and if any of its stipulations is null or void, it remains without effect, unless otherwise agreed.

In this case, the guarantees granted by the parties are restored, but not those provided by third parties.

### **Article 1311.- Luck as a means of transaction**

When the parties use luck to settle issues, this produces the effects of the transaction and the rules of this title apply to it.

### **Article 1312.- Execution of the judicial and extrajudicial transaction**

The judicial transaction is executed in the same way as the sentence and the extrajudicial one, in the executive way.

## **Title VIII: Mutual dissent**

### **Article 1313.- Notion of mutual dissent**

By mutual dissent, the parties that have entered into a legal act agree to render it without effect. If it damages the right of a third party, it is considered not carried out.

## **Title IX: Non-performance of obligations**

### **Chapter one: General provisions**

#### **Article 1314.- Insolvency due to ordinary diligence**

Whoever acts with the ordinary diligence required is not liable for non-performance of the obligation or for its partial, late or defective fulfillment.

#### **Article 1315.-Act of God or force majeure**

A fortuitous event or force majeure is the non-attributable cause, consisting of an extraordinary, unforeseeable and irresistible event, which prevents the execution of the obligation or determines its partial, late or defective fulfillment.

#### **Article 1316.- Extinction of the obligation for reasons not attributable to the debtor**

The obligation is extinguished if the provision is not executed for reasons not attributable to the debtor.

If this cause is temporary, the debtor is not responsible for the delay while it lasts. However, the obligation is extinguished if the cause that determines the non-performance persists until the debtor, according to the title of the obligation or the nature of the provision, can no longer be considered obliged to perform it; or until the creditor justifiably loses interest in its performance or is no longer useful.

The obligation that is only capable of being partially executed is also extinguished, if it is not useful for the creditor or if the latter has no justified interest in its partial execution. Otherwise, the debtor is obliged to execute it with a reduction of the consideration, if any.

#### **Article 1317.- Damages for non-imputable non-execution**

The debtor is not liable for damages resulting from the non-performance of the obligation, or from its partial, late or defective fulfillment, for non-attributable causes, unless otherwise expressly provided by law or by the title of the obligation.

#### **Article 1318.- Dolo**

Who deliberately does not execute the obligation proceeds with fraud.

#### **Article 1319.- Inexcusable guilt**

The person who by gross negligence does not execute the obligation incurs inexcusable fault.

#### **Article 1320.- Slight fault**

The person who omits that ordinary diligence required by the nature of the obligation and which corresponds to the circumstances of the people, time and place, acts with slight negligence.

#### **Article 1321.- Compensation for fraud, slight and inexcusable fault**

Anyone who does not perform their obligations due to fraud, inexcusable fault or slight fault is subject to compensation for damages.

The compensation for the non-performance of the obligation or for its partial, late or defective fulfillment, includes both the consequential damage and the loss of profit, insofar as they are an immediate and direct consequence of such non-performance.

If the non-performance or partial, late or defective fulfillment of the obligation were due to slight fault, the compensation is limited to the damage that could be foreseen at the time it was contracted.

#### **Article 1322.- Compensation for moral damage**

Non-pecuniary damage, when it has been incurred, is also liable to compensation.

#### **Article 1323.- Failure to pay the fee**

When the payment must be made in periodic installments, failure to comply with three installments, successive or not, grants the creditor the right to demand the debtor for immediate payment of the balance, giving up the installments that were pending, unless otherwise agreed.

#### **Article 1324.- Effects of the non-performance of monetary obligations**

Obligations to give sums of money accrue the legal interest set by the Central Reserve Bank of Peru, from the day the debtor is in default, without the need for the creditor to prove that they have suffered any damage. If higher interests were owed before the default, they will continue to accrue after the day of default, with the quality of default interest.

If compensation for subsequent damage had been stipulated, it corresponds to the creditor who proves to have suffered the respective compensation.

#### **Article 1325.- Responsibility in obligations executed by third parties**

The debtor who uses third parties to execute the obligation, is liable for the fraudulent or culpable acts thereof, unless otherwise agreed.

#### **Article 1326.- Reduction of compensation for acts of the creditor**

If the fraudulent or negligent act of the creditor had concurred to cause the damage, the compensation will be reduced according to its seriousness and the importance of the consequences derived from it.

#### **Article 1327.- Release of compensation**

The compensation is not due for damages that the creditor could have avoided using ordinary diligence, unless otherwise agreed.

#### **Article 1328.- Nullity of the pact of exoneration and limitation of liability**

Any stipulation that excludes or limits liability for fraud or inexcusable fault of the debtor or of the third parties of whom it avails itself is null.

Any pact of exoneration or limitation of liability for cases in which the debtor or said third parties violate obligations derived from public order regulations is also void.

#### **Article 1329.- Presumption of slight fault of the debtor**

It is presumed that the non-performance of the obligation, or its partial, late or defective fulfillment, is due to the slight fault of the debtor.

#### **Article 1330.- Proof of fraud and inexcusable guilt**

The proof of fraud or inexcusable fault corresponds to the injured party due to the non-performance of the obligation, or due to its partial, late or defective fulfillment.

#### **Article 1331.- Proof of damages.**

Proof of damages and their amount also corresponds to the injured party due to non-performance of the obligation, or due to its partial, late or defective performance.

#### **Article 1332.- Valuation of compensation**

If compensation for the damage cannot be proven in its precise amount, it must be set by the judge with a fair assessment.

## Chapter Two: Mora

### Article 1333.- Constitution in arrears

The obligor is in arrears as soon as the creditor demands, judicially or extrajudicially, the fulfillment of his obligation.

The notice is not necessary for the default to exist:

1. When the law or the pact expressly declare it.
2. When the nature and circumstances of the obligation show that the designation of the time in which the good was to be delivered, or the service performed, would have been a determining reason for contracting it.
3. When the debtor expresses in writing his refusal to comply with the obligation.
4. When the summons is not possible for reasons attributable to the debtor.

### Article 1334.- Delay in obligations to give sums of money

In the obligations to give sums of money whose amount requires to be determined by judicial resolution, there is a delay from the date of the summons with the demand.

The provisions of article 1985 are excepted from this rule.

### Article 1335.- Delay in reciprocal obligations

In reciprocal obligations, none of the obligated parties is in default unless one of them fulfills his obligation, or grants guarantees that he will fulfill it.

### Article 1336.- Responsibility of the debtor in case of default

The debtor established in default is liable for the damages incurred by the delay in the fulfillment of the obligation and by the supervening impossibility, even when it obeys because it is not attributable to him. You can escape this responsibility by proving that you have incurred a delay without fault, or that the non-attributable cause would have affected the benefit; although it had been fulfilled in a timely manner.

### Article 1337.- Compensation in case of delay that renders the obligation unusable

When due to the late payment of the debtor, the obligation turns out to be useless for the creditor, the creditor may refuse its execution and demand the payment of compensation for compensatory damages.

**Article 1338.- Default of the creditor**

The creditor is in default when, for no legitimate reason, he refuses to accept the service offered or fails to perform the necessary acts for the obligation to be executed.

**Article 1339.- Compensation for arrears of the creditor**

The creditor in default is obliged to compensate the damages derived from its delay.

**Article 1340.- Risk due to impossibility of compliance with obligation**

The creditor in default assumes the risks due to the impossibility of complying with the obligation, unless it is due to fraud or inexcusable fault of the debtor.

**Chapter three: Obligations with penal clause****Article 1341.- Compensatory criminal clause**

The agreement by which it is agreed that, in the event of non-compliance, one of the contracting parties is obliged to pay a penalty, has the effect of limiting the compensation to this provision and that the consideration is returned, if any; Unless compensation for subsequent damage has been stipulated. In the latter case, the debtor must pay the full penalty, but this is computed as part of the damages if they were greater.

**Article 1342.- Enforceability of the penalty and obligation**

When the penal clause is stipulated for the case of default or security of a certain agreement, the creditor has the right to demand, in addition to the penalty, the fulfillment of the obligation.

**Article 1343.- Enforceability of punishment**

To demand the penalty it is not necessary for the creditor to prove the damages suffered. However, it can only be required when the breach is due to a cause attributable to the debtor, unless otherwise agreed.

**Article 1344.- Opportunity for stipulation**

The penal clause can be stipulated jointly with the obligation or by subsequent act.

**Article 1345.- Accessory of penal clause**

The nullity of the penal clause does not give rise to that of the main obligation.

#### **Article 1346.- Judicial reduction of the sentence**

The judge, at the request of the debtor, can equitably reduce the penalty when it is manifestly excessive or when the main obligation has been partially or irregularly fulfilled.

#### **Article 1347.- Divisible criminal clause**

Each of the debtors or the heirs of the debtor is obliged to satisfy the penalty in proportion to his part, provided that the penal clause is divisible, although the obligation is indivisible.

#### **Article 1348.- Indivisible criminal clause**

If the penal clause is indivisible, each of the debtors and their heirs is obliged to fully satisfy the penalty.

#### **Article 1349.- Joint and divisible criminal clause**

If the penal clause is joint, but divisible, each of the debtors is obliged to satisfy it in full.

In the event of the death of a co-debtor, the penalty is divided among his heirs in proportion to the shares that correspond to them in the inheritance.

#### **Article 1350.- Right of non-guilty co-debtors**

The co-debtors who were not guilty have expedited their right to claim from the one who gave rise to the application of the penalty.

## **Book VII: Sources of obligations**

### **Section: Contracts in general**

#### **Title I: General provisions**

#### **Article 1351.- Notion of contract**

The contract is the agreement of two or more parties to create, regulate, modify or terminate a legal patrimonial relationship.

**Article 1352.- Perfection of contracts**

Contracts are perfected by the consent of the parties, except those that, in addition, must observe the form indicated by law under penalty of nullity.

**Article 1353.- Legal regime of contracts**

All private law contracts, including unnamed ones, are subject to the general rules contained in this section, except insofar as they are incompatible with the particular rules of each contract.

**Article 1354.- Contractual freedom**

The parties can freely determine the content of the contract, as long as it is not contrary to mandatory legal norm.

**Article 1355.- Contracting rule and limits**

The law, for considerations of social, public or ethical interest, may impose rules or establish limitations on the content of the contracts.

**Article 1356.- Primacy of the will of the contracting parties.**

The provisions of the law on contracts are supplementary to the will of the parties, unless they are mandatory.

**Article 1357.- Guarantee and security of the State**

By law, supported by reasons of social, national or public interest, guarantees and assurances granted by the State through contract can be established.

**Article 1358.- Contracts that can be entered into by a person with restricted exercise capacity**

People with restricted exercise capacity contemplated in article 44, paragraphs 4 to 8, may enter into contracts related to the ordinary needs of their daily life.

**Article 1359.- Conformity of the will of the parties**

There is no contract as long as the parties are not in agreement with all its stipulations, even if the discrepancy is secondary.

**Article 1360.- Validity of the contract with reservation**

The contract is valid when the parties have resolved to reserve a stipulation, provided that the reservation is subsequently satisfied, in which case it operates retroactively.

### **Article 1361.- Obligation of contracts**

The contracts are binding as soon as it has been expressed in them.

It is presumed that the statement expressed in the contract responds to the common will of the parties and whoever denies this coincidence must prove it.

### **Article 1362.- Good Faith**

Contracts must be negotiated, executed and executed according to the rules of good faith and common intention of the parties.

### **Article 1363.- Effects of the contract**

Contracts only produce effects between the parties who grant them and their heirs, except for these if it is about non-transferable rights and obligations.

### **Article 1364.- Expenses and taxes of the contract**

The expenses and taxes that originate the celebration of a contract are divided equally between the parties, except legal provision or different agreement.

### **Article 1365.- End of continuing contracts**

In contracts of continuous execution that do not have a fixed conventional or legal term, either party may terminate it by means of prior notice sent by notarial means with an anticipation of no less than thirty days. After the corresponding period, the contract is fully terminated.

### **Article 1366.- Persons prohibited from acquiring real rights by contract, legacy or auction**

They cannot acquire real rights by contract, legacy or public auction, directly or indirectly or through an intermediary:

1. The President and Vice Presidents of the Republic, the Senators and Deputies, the Ministers of State and officials of the same hierarchy, the Magistrates of the Supreme Court of Justice and those of the Court of Constitutional Guarantees, the Prosecutor of the Nation and the Prosecutors before the Supreme Court of Justice, the members of the National Elections Jury, the Comptroller

General of the Republic, the President and Directors of the Central Reserve Bank of Peru and the Superintendent of Banking and Insurance, national assets.

2. The Prefects and other political authorities, the goods that the previous paragraph deals with, located in the territory of their jurisdiction.
3. Officials and servants of the Public Sector, the assets of the body to which they belong and those entrusted to their administration or custody or those that require their intervention to be transferred.
4. The judicial magistrates, the arbitrators and the judicial assistants, the property that is or has been in dispute before the court or the court in whose jurisdiction they exercise or have exercised their functions.
5. The members of the Public Ministry, the assets included in the processes in which they intervene or have intervened by reason of their function.
6. Lawyers, assets that are the subject of a trial in which they intervene or have intervened by reason of their profession, up to one year after it has been concluded in all its instances. The litis fee agreement is excepted.
7. The executors, the assets they administer.
8. Those who by law or act of public authority administer property of others, with respect to said property.
9. Trade brokers, auctioneers and experts, the goods whose sale or evaluation has been entrusted to them, up to one year after their intervention in the operation.

#### **Article 1367.- Extension of the impediment**

The prohibitions established in article 1366 also apply to relatives up to the fourth degree of consanguinity and second degree of affinity of disabled persons.

#### **Article 1368.- Period of prohibitions**

The prohibitions referred to in paragraphs 1, 2, 3, 7 and 8 of article 1366 apply until six months after the disabled persons cease to hold their respective positions.

#### **Article 1369.- Inapplicability of impediments**

The prohibitions of sections 6 and 7 of article 1366 do not apply when it comes to the right of co-ownership or dation in payment.

#### **Article 1370.- Termination.**

The termination renders a contract for causal existing at the time of signing it null and void.

### **Article 1371.- Resolution**

The resolution renders without effect a valid contract due to a supervening cause.

### **Article 1372.- Retroactive effects of termination and resolution**

The rescission is declared judicially, but the effects of the sentence go back to the moment of the conclusion of the contract.

The resolution is invoked judicially or extrajudicially. In both cases, the effects of the sentence go back to the moment in which the cause that motivates it occurs.

By reason of the resolution, the parties must restore the benefits in the state in which they were at the time indicated in the previous paragraph, and if this is not possible, the value they had at that time must be reimbursed in money.

In the cases provided for in the first two paragraphs of this Article, there is an agreement to the contrary. Rights acquired in good faith are not impaired.

## **Title II: Consent**

### **Article 1373.- Perfection of the Contract**

The contract is concluded at the time and place in which the acceptance is known by the offeror.

### **Article 1374.- Knowledge and hiring of absentees**

The offer, its revocation, acceptance and any other contractual declaration addressed to a certain person are considered known when they arrive at the recipient's address, unless the recipient proves to have found, through no fault of his own, the impossibility of knowing it. .

If it is carried out through electronic, optical or other similar means, the receipt of the contractual declaration will be presumed, when the sender receives the acknowledgment of receipt. "

### **Article 1375.- Opportunity for acceptance**

The acceptance must reach the knowledge of the offeror within the period established by him.

### **Article 1376.- Counteroffer**

Late and timely acceptance that is not in accordance with the offer amount to a counter offer.

However, the offeror may consider the late acceptance or the one made with modifications to be effective, provided that it gives immediate notice to the acceptor.

#### **Article 1377.- Alternative offers**

Alternative offers made to the same recipient are valid. The acceptance of any of the alternative offers gives rise to the formation of the contract with respect to which the recipient has expressed his acceptance.

#### **Article 1378.- Observance of the required form**

The acceptance that is formulated without observing the form required by the offeror has no effect.

#### **Article 1379.- Cross offers**

In cross offers, the contract is concluded with the acceptance of one of them.

#### **Article 1380.- Tacit acceptance**

When at the request of the offeror or due to the nature of the operation or according to the uses, the provision by the acceptor has to be executed without a prior response, the contract is concluded at the time and place in which the execution began. The acceptor must promptly notify the bidder of the start of the execution and, failing that, is obliged to compensate for damages.

#### **Article 1381.- Exceptional acceptance**

If the operation is one in which express acceptance is not customary or if the recipient has made an invitation to offer, the contract is deemed to have been concluded if the offer was not rejected without delay.

The proof of custom and of the invitation to offer corresponds to the offeror.

#### **Article 1382.- Obligatory nature of the offer**

The offer is binding on the offeror, if the opposite is not the result of its terms, the nature of the operation or the circumstances of the case.

#### **Article 1383.- Effectiveness of the offer**

The death or the supervening incapacity of the offeror does not deprive the offer of effectiveness, which obliges its heirs or legal representatives, unless the nature of the operation or other

circumstances determine that the binding force of the offer is non-transferable.

### **Article 1384.- Revocation of the offer**

The offer is no longer binding if, before or simultaneously with its receipt, the offeror's declaration comes to the attention of the recipient in the sense that it can be revoked at any time before its acceptance.

### **Article 1385.- Expiration of the offer**

Offer expires:

1. If it was done without granting a determined or determinable period to a person with whom the offeror is in immediate communication and was not subsequently accepted.
2. If it was done without granting a determined or determinable period to a person with whom the offeror is not in immediate communication and sufficient time had elapsed for the response to be made known to the offeror, by the same means of communication used by the offeror.
3. If before the offer is received or simultaneously with it, the offeror's retraction is known to the recipient.

### **Article 1386.- Revocation of acceptance**

Acceptance is considered non-existent if before it or together with it, the acceptor's withdrawal comes to the attention of the offeror.

### **Article 1387.- Expiration of the offer due to death or incapacity of the recipient**

The death or the supervening incapacity of the recipient of the offer determines the expiration of the offer.

### **Article 1388.- Offer to the public**

The offer to the public is valid as an invitation to offer, considering bidders those who access the invitation and the recipient is the proponent.

If the proponent clearly indicates that their proposal is binding on an offer, it will be valid as such.

### **Article 1389.- Auction**

In the auction, the call is an invitation to offer and the bids are the offers.

The obligatory nature of each position ceases as soon as a better one is formulated.

The contract is concluded when the auctioneer awards the good bid to the bidder who has formulated the best valid bid so far.

#### **Article 1390.- Contract for adhesion**

The contract is by adhesion when one of the parties, placed in the alternative of accepting or rejecting in full the stipulations established by the other party, declares its willingness to accept.

#### **Article 1391.- Third party adhesion**

When third parties adhere to a contract that has already been concluded and the way to join is not determined, the interested party must go to the body set up for the performance of the contract or, failing that, to all the original contracting parties.

#### **Article 1392.- General contracting clauses**

General contracting clauses are those previously and unilaterally drawn up by a person or entity, in a general and abstract way, in order to set the normative content of an indefinite series of future private contracts, with their own elements.

#### **Article 1393.- General clauses approved by administrative authority**

The general contracting clauses approved by the administrative authority are automatically incorporated into all offers that are formulated to contract in accordance with them, without prejudice to the provisions of article 1395.

#### **Article 1394.- Goods and services contracted by general clauses**

The Executive Power will indicate the provision of goods and services that must be contracted in accordance with general contracting clauses approved by the administrative authority.

#### **Article 1395.- Exclusion of general clauses of the contract**

The parties may expressly agree that certain general contracting clauses approved by the administrative authority are not incorporated into the offer in the particular contract that they enter into.

#### **Article 1396.- Effects of the consumption of the good or use of the service**

In contracts offered in accordance with general contracting clauses approved by the administrative authority, the consumption of the good or the use of the service automatically generates the obligation to pay the customer, even when the contract has not been formalized or is incapable.

#### **Article 1397.- General clauses not administratively approved**

The general contracting clauses not administratively approved are incorporated into the offer of a particular contract when they are known by the counterpart or have been able to know them using an ordinary diligence.

It is presumed that the counterpart has known the general contracting clauses when they have been made known to the public through adequate publicity.

#### **Article 1398.- Invalid stipulations**

In the contracts entered into by adhesion and in the general contracting clauses not administratively approved, the stipulations that establish, in favor of whoever drafted them, exemptions or limitations of liability are not valid; powers to suspend the performance of the contract, to rescind or terminate it, and to prohibit the other party from opposing exceptions or tacitly extending or renewing the contract."

#### **Article 1399.- Ineffectiveness of stipulations.**

In nominated contracts concluded by adhesion or pursuant to general contracting clauses not administratively approved, the stipulations contrary to the rules established for the corresponding contract are ineffective, unless the circumstances of each particular contract justify their validity.

#### **Article 1400.- Prevalence of clauses added to the form**

In the cases of article 1397, the clauses added to the form prevail over the latter when they are incompatible, although the latter have not been rendered without effect.

#### **Article 1401.- Interpretation of the stipulations**

The stipulations inserted in the general contracting clauses or in forms drawn up by one of the parties, are interpreted, in case of doubt, in favor of the other.

### **Title III: Object of the contract**

#### **Article 1402.- Object of the contract**

The object of the contract is to create, regulate, modify or extinguish obligations.

#### **Article 1403.- Unlawful obligation and possible provision**

The obligation that is the subject of the contract must be lawful.

The provision of the obligation and the property that is the subject of it must be possible.

#### **Article 1404.- Contracts subject to condition or suspensive period.**

The legality of the obligation or the possibility of the provision or the good that is the subject of it in a contract subject to condition or suspensive period, will be appreciated at the time of compliance with the condition or the expiration of the term.

#### **Article 1405.- Nullity of the contract on the right to succeed**

Any contract on the right to succeed in the assets of a person who has not died or whose death is unknown is void.

#### **Article 1406.- Nullity of disposition of future patrimony**

The contract that provides for all or a substantial part of the goods that a person may acquire in the future is void.

#### **Article 1407.- Determination of the object by arbitration**

If the determination of the obligation that is the object of the contract is deferred to a third party and it is not found that the parties wanted to refer at their own discretion, the third party must proceed by making an equitable assessment.

#### **Article 1408.- Determination of a third party.**

The determination made at the sole discretion of a third party cannot be contested if their bad faith is not proven.

If the determination is lacking and the parties do not agree to replace the third party, the contract is void.

#### **Article 1409.- Goods subject to the provision**

The provision subject to the obligation created by the contract may concern:

1. Future assets, before they exist in kind, and also the uncertain hope that they exist, except for the prohibitions established by law.
2. Property of others or affected in guarantee or seized or subject to litigation for any other cause.

#### **Article 1410.- Compliance on future good**

When the obligation created by the contract falls on a future asset, the delivery commitment is subordinate to its subsequent existence, except that the obligation is based on an uncertain hope, in which case the contract is random.

If the non-delivery is due to causes attributable to the obligor, the creditor may resort to the rights conferred by law.

### **Title IV: Form of the contract**

#### **Article 1411.- Form as a requirement**

It is presumed that the form that the parties agree to adopt in advance and in writing is an essential requirement for the validity of the act, under penalty of nullity.

#### **Article 1412.- Requirement of parties to comply with the formality**

If by mandate of the law or by agreement, a public deed must be granted or another requirement that does not review the solemn form legally prescribed or the one agreed by the parties in writing under penalty of nullity, they may reciprocally compel themselves to fill out the required formality.

The claim is processed as a summary process, unless the title whose formality is concerned has the quality of executive, in which case the corresponding process is followed.

#### **Article 1413.- Formality for the modification of the contract**

Modifications to the original contract must be made in the manner prescribed for that contract.

### **Title V: Preparatory contracts**

#### **Article 1414.- Commitment to contract**

By the commitment to contract the parties are obliged to enter into a definitive contract in the future.

#### **Article 1415.- Content of the commitment to contract**

The commitment to contract must contain, at least, the essential elements of the definitive contract.

### **Article 1416.-Term of the commitment to contract**

The term of the commitment to contract must be determined or determinable. If the term is not established, it will be one year.

### **Article 1417.- Commitment to contract at expiration**

The commitment to contract can be renewed upon expiration for a period no longer than the maximum indicated in article 1416 and so on.

### **Article 1418.- Unjustified refusal to enter into a definitive contract**

The unjustified refusal of the person obliged to enter into the final contract alternatively grants the other party the right to:

1. Legally demand the conclusion of the contract.
2. Request to cancel the commitment to contract.

In either case, there is room for compensation for damages.

### **Article 1419.- Option contract**

By the option contract, one of the parties is bound by its declaration of entering into a definitive contract in the future and the other has the exclusive right to enter into it or not.

### **Article 1420.- Reciprocal option contract**

The agreement by virtue of which the reciprocal option contract can be exercised without distinction by any of the parties is valid.

### **Article 1421.- Option contract with beneficiary reserve**

The agreement according to which the opting party reserves the right to designate the person with whom the definitive link will be established is also valid.

### **Article 1422.- Content of the option contract**

The option contract must contain all the elements and conditions of the definitive contract.

### **Article 1423.- Term of the Option Contract**

The term of the option contract must be determined or determinable. If the term is not established, it will be one year. "

#### **Article 1424.- Renewal of the Option Contract**

At the expiration of the option, the parties may renew it for a period no longer than the maximum indicated in article 1423 and so on.

#### **Article 1425.- Formality in Preparatory Contracts**

Preparatory contracts are void if they are not executed in the same way that the law prescribes for the definitive contract under penalty of nullity.

### **Title VI: Contract with reciprocal benefits**

#### **Article 1426.- Breach**

In contracts with reciprocal benefits in which they must be fulfilled simultaneously, each party has the right to suspend the performance of the provision at its expense, until the consideration is satisfied or compliance is guaranteed.

#### **Article 1427.- Expiration of the term**

If, after concluding a contract with reciprocal benefits, the risk arises that the party that must perform secondly cannot do so, the party that must perform the service first may suspend its performance, until that party satisfies the one that concerns or guarantees its fulfillment.

#### **Article 1428.- Resolution for breach**

In contracts with reciprocal benefits, when one of the parties fails to comply with its provision, the other party may request the fulfillment or termination of the contract and, in either case, compensation for damages.

As of the date of the summons with the demand for resolution, the defendant is prevented from fulfilling its provision.

#### **Article 1429.- Resolution of full right**

In the case of article 1428, the party that is harmed by the breach of the other may request it by means of a notarial letter to satisfy its provision, within a period of no less than fifteen days, under warning that, otherwise, the contract is terminated.

If the provision is not fulfilled within the specified period, the contract is fully terminated, with the debtor being responsible for compensation for damages.

#### **Article 1430.- Resolution condition**

It may be expressly agreed that the contract is terminated when one of the parties does not fulfill a certain service under its charge, established with all precision.

The resolution occurs by operation of law when the interested party communicates to the other that it wants to use the resolution clause.

#### **Article 1431.- Resolution due to impossibility of the provision**

In contracts with reciprocal benefits, if the provision by one of the parties becomes impossible through no fault of the contracting parties, the contract is fully terminated. In this case, the released debtor loses the right to compensation and must return what he has received.

However, the parties may agree that the risk is borne by the creditor.

#### **Article 1432.- Resolution by fault of the parties**

If the provision is impossible due to the fault of the debtor, the contract is fully terminated and the latter cannot demand the consideration and is subject to compensation for damages.

When the impossibility is attributable to the creditor, the contract is fully terminated. However, said creditor must satisfy the consideration, corresponding to him the rights and actions that have remained related to the provision.

#### **Article 1433.- Non-compliance due to partial impossibility**

The rules of articles 1431 and 1432 are applicable when the performance of the service becomes partially impossible, unless the creditor indicates to the debtor his agreement for partial performance, in which case a proportional reduction in the consideration due must be made.

The contract is terminated when the reduction is not possible.

#### **Article 1434.- Breach of autonomous plurilateral benefits**

In plurilateral contracts with autonomous benefits, the supervening impossibility of fulfilling the benefit by one of the parties does not determine the termination of the contract with respect to the others, unless the unfulfilled benefit is considered essential, according to the circumstances.

In cases of non-compliance, the other parties may choose to terminate the bond with respect to the one that was in breach or demand its compliance.

## **Title VII: Assignment of contractual position**

### **Article 1435.-Assignment**

In contracts with services not fully or partially executed, any of the parties may assign their contractual position to a third party.

The other party is required to agree before, simultaneously or after the assignment agreement.

If the agreement of the assignee had been previously provided to the agreement between the assignor and the assignee, the contract will only have effect as soon as said agreement has been communicated to the assignee in writing on a certain date.

### **Article 1436.- Rules applicable to the assignment of contractual position**

The form of the transmission, the capacity of the intervening parties, the vices of consent and the relationships between the contracting parties are defined according to the act that serves as the basis for the transfer and are subject to the relevant legal provisions.

### **Article 1437.- Release of the assignor**

The assignor deviates from his rights and obligations and both are assumed by the assignee from the moment the assignment is made. However, the assignee may take action against the assignor if he has agreed with the latter that he is not released by the assignment if the assignee does not fulfill the obligations assumed. In this case, the assignee must notify the assignor of the assignee's breach within thirty days in which it occurred and, failing to do so, the assignor is free of liability.

### **Article 1438.- Guarantee of existence and validity of the contract**

The transferor guarantees to the transferee the existence and validity of the contract, unless otherwise agreed. This agreement does not take effect if the disability is due to the transferor's own act.

The agreement by which the assignor guarantees compliance with the obligation of the debtor is valid, in which case he responds as guarantor.

The assignee may oppose the assignee and the assignee against the exceptions and defense measures derived from the contract, but not those based on other relationships with the assignor, unless he had

expressly reserved them at the time he accepted the assignment.

### **Article 1439.- Third-party guarantees in the assignment contract**

The guarantees constituted by third parties do not pass to the assignee without the express authorization of those.

## **Title VIII: Excessive cost of the benefit**

### **Article 1440.- Definition**

In commutative contracts of continuous, periodic or deferred execution, if the provision becomes excessively onerous due to extraordinary and unforeseeable events, the injured party may request the judge to reduce it or increase the consideration, in order to cease the excessive onerous cost .

If this is not possible due to the nature of the provision, the circumstances or if requested by the defendant, the judge will decide to terminate the contract. The resolution does not extend to executed services.

### **Article 1441.- Extension of the excessive onerosity of the benefit**

The provisions contained in article 1440 apply:

1. Commutative contracts of immediate execution, when the provision by one of the parties has been deferred for reasons not attributable to it.
2. To random contracts, when the excessive onerosity occurs for reasons unrelated to the risk of the contract.

### **Article 1442.- Excessive onerosity in contracts with the provision of a part**

In the case of contracts in which only one of the parties has assumed obligations, it is exclusive for him to request judicially the reduction of the benefit in order to cease its excessive onerousness.

If the benefit cannot be reduced, the provisions of the second paragraph of article 1440 govern.

### **Article 1443.- Inadmissibility of the action due to excessive burdensomeness**

The action for excessive onerousness of the provision does not proceed when its execution has been deferred due to fraud or fault of the injured party.

### **Article 1444.- Nullity of the resignation of the action**

The waiver of the action due to excessive cost of the benefit is void.

#### **Article 1445.- Expiration of the action**

The action for excessive onerosity of the benefit expires three months after the extraordinary and unforeseeable events referred to in article 1440.

#### **Article 1446.- Expiration period**

The initial term of the expiration period referred to in article 1445 runs from the moment in which the extraordinary and unforeseeable events have disappeared.

### **Title IX: Injury**

#### **Article 1447.- Action for Injury**

The rescission action for injury can only be exercised when the disproportion between the benefits at the time the contract is concluded is greater than two fifths and provided that such disproportion results from the use by one of the contracting parties of the pressing need of the other.

It also applies to random contracts, when disproportion occurs due to causes other than their own risk.

#### **Article 1448.- Presumption of use**

In the case of article 1447, if the disproportion is equal to or greater than two thirds, it is presumed that the injured party takes advantage of the pressing need of the injured party.

#### **Article 1449.-Appreciation of the disproportion**

The disproportion between the benefits will be appreciated according to the value they have at the time the contract is signed.

#### **Article 1450.- Consignment of excess**

The process ends if the defendant, within the term to answer the claim, consigns the difference in value.

#### **Article 1451.- Readjustment of the value**

The defendant can counter the readjustment of the value. In this case, the judgment will provide for the payment of the difference in established value, plus your legal interests, within a period of eight days, under warning of declaring the contract terminated.

#### **Article 1452.- Readjustment action.**

In cases where the rescission action referred to in article 1447 is useless for the injured party, since it is not possible for the defendant to return the benefit received, the readjustment action will proceed.

#### **Article 1453.- Nullity of the waiver of the action for injury**

The waiver of the action for injury is void.

#### **Article 1454.- Expiration of the action due to injury**

The action for injury expires six months after the benefit paid by the injured party, but in any case two years after the conclusion of the contract.

#### **Article 1455.- Inadmissibility of the action for injury**

The action for injury does not proceed:

1. In the transaction.
2. In sales made by public auction.

#### **Article 1456.- Injury in the partition**

The co-owner who has disposed of assets for more than half the value at which they were awarded cannot bring the action for injury.

### **Title X: Contract in favor of a third party**

#### **Article 1457.- Definition**

By the contract in favor of a third party, the promisor agrees to the stipulator to fulfill a benefit for the benefit of a third person.

The stipulator must have his own interest in the conclusion of the contract.

#### **Article 1458.- Origin and enforceability of the third party's right**

The right of the third party arises directly and immediately from the conclusion of the contract. However, it will be necessary for the third party to make known to the stipulator and the promisor their will to make use of that right, so that it is enforceable, operating this declaration retroactively.

The beneficiary's declaration may be prior to the contract.

#### **Article 1459.- Declaration of heirs**

The declaration of making use of the right can be made by the heirs of the third beneficiary, unless otherwise agreed.

#### **Article 1460.- Lack of acceptance of the third party**

If the third party does not agree to make use of the right, the stipulator can demand the benefit in his favor.

#### **Article 1461.- Enforceability of the promisor.**

The stipulator has the right to demand the fulfillment of the obligation by the promisor. The same right corresponds to the third beneficiary once they have made the declaration referred to in article 1458 and to the heirs of the same in the case of article 1459.

#### **Article 1462.- Exclusivity of the third party to demand compliance**

When the right to enforce the obligation of the promisor is left exclusively to the third party, the stipulator may not exonerate him.

#### **Article 1463.- Right of substitution of the stipulator**

The stipulator may reserve in the contract the right to substitute the third party regardless of the will of the third party and that of the promisor.

The substitution referred to in the preceding paragraph is not transmitted to the heirs of the stipulator, unless otherwise agreed.

#### **Article 1464.- Revocation or modification of the right of the third party.**

The stipulator can revoke or modify the right of the third party as long as the cases of acceptance provided for in articles 1458 and 1459 have not occurred.

#### **Article 1465.- Non-transferability of the power to revoke or modify**

The power of revocation or modification is not transmitted to the heirs, unless otherwise agreed.

#### **Article 1466.- Requirements for revocation or modification**

For the stipulator and his heirs, where appropriate, to enforce the revocation or modification, it is required that the third party has known the existence of the contract and has not yet expressed the will to make use of their right.

#### **Article 1467.- Termination of the contract by revocation**

The revocation of the stipulation in favor of the third party produces the termination of the contract, unless otherwise agreed.

#### **Article 1468.- Waiver of the power to revoke, modify or replace the contract**

You can waive the power to revoke, modify or replace the contract in favor of a third party.

#### **Article 1469.- Opposition to the right of a third party**

The promisor may oppose the third party exceptions based on the contract, but not those arising from other relationships between him and the party.

### **Title XI: Promise of the obligation or the fact of a third party**

#### **Article 1470.- Promise of the obligation or the fact of a third party**

The obligation or the fact of a third party can be promised, with the charge that the promisor is obliged to indemnify the other contractor if the third party does not assume the obligation or does not fulfill the promised fact, respectively.

#### **Article 1471.- Compensation as a substitute benefit**

In any of the cases of article 1470, the compensation payable by the promisor has the character of a substitute provision for the obligation or fact of the third party.

#### **Article 1472.-Advance Pact of Compensation**

The amount of compensation can be agreed in advance.

### **Title XII: Contract per person to be named**

### **Article 1473.- Power of the parties to appoint a third party.**

When entering into the contract, it may be agreed that either party reserves the right to subsequently appoint a third party to assume the rights and obligations derived from that act.

The reservation of appointment does not apply in cases in which representation is not admitted or the determination of the contracting parties is essential.

### **Article 1474.- Term for appointment of a third party**

The declaration of appointment must be communicated to the other party within a period that may not exceed twenty days, counted from the date of execution of the contract.

The declaration of appointment has no effect if it is not accompanied by the acceptance of the person named.

### **Article 1475.- Formality of the declaration of appointment**

The declaration of appointment and acceptance by the appointed person must take the same form that the parties have used for the contract, even if it is not prescribed by law.

### **Article 1476.- Effects of the declaration of appointment**

If the declaration of appointment was validly made, the person named assumes the rights and obligations derived from the contract, with effect from the moment it is entered into.

Otherwise or when the declaration of appointment is not made within the term, the contract takes effect between the original contracting parties.

## **Title XIII: Confirmatory Arras**

### **Article 1477.- Delivery and return of deposit**

The delivery of confirmatory deposit matters the conclusion of the contract. In case of compliance, the person who received the deposit will return them or will charge them on their credit, depending on the nature of the provision.

### **Article 1478.- Criminal charges**

If the party that had delivered the deposit does not comply with the obligation due to causes attributable to it, the other party may void the contract while keeping the deposit. If the party that did

not comply is the party that has received them, the other party may rescind the contract and demand double the deposit.

#### **Article 1479.- Rules applicable to compensation**

If the party that has not breached the obligation prefers to demand the execution or termination of the contract, compensation for damages is regulated by the general rules.

### **Title XIV: Retraction Arras**

#### **Article 1480.- Arras of retraction**

The delivery of the retraction deposit is only valid in preparatory contracts and grants the parties the right to withdraw from them.

#### **Article 1481.- Effects of withdrawal between parties**

If the party that delivers the deposit retracts, it loses them to the benefit of the other contractor.

If the person receiving the deposit retracts, they must return them doubled at the time of exercising the right.

#### **Article 1482.- Waiver of the right of withdrawal**

The party receiving the earnest money may waive the right of withdrawal.

#### **Article 1483.- Effect of the definitive contract**

If the definitive contract is concluded, whoever receives the deposit will return them immediately or will charge them on their credit, depending on the nature of the provision.

### **Title XV: Sanitation Obligations**

#### **Chapter one: General provisions**

#### **Article 1484.- Application of sanitation**

There is room for sanitation in contracts relating to the transfer of property, possession or use of an asset.

#### **Article 1485.- Sanitation.**

By virtue of the reorganization, the transferor is obliged to respond to the acquirer for the eviction, for the hidden defects of the property or for its own facts, that do not allow the transferred property to be used for the purpose for which it was acquired or that decrease its value.

#### **Article 1486.- Normal destination**

If the purpose of the acquisition is not expressly or tacitly indicated, it is presumed that the will of the parties is to give the property its normal destination in accordance with its characteristics, the opportunity of acquisition and the customs of the place.

#### **Article 1487.- Transmission of the right to sanitation**

Both the obligation and the right to reorganization are transmitted to the respective heirs.

#### **Article 1488.- Expiration of the reorganization action**

The acquirer may demand the reorganization of both its immediate transferor and those prior to it, insofar as they have been obliged to do so with respect to their immediate acquirers.

The expiration periods of the remediation actions against the transferors prior to the immediate one are counted from the conclusion of their respective contracts.

#### **Article 1489.- Faculty of the contracting parties regarding sanitation**

The contracting parties may extend, restrict or suppress the obligation of reorganization, except in the case contemplated in article 1528.

#### **Article 1490.- Limitation of Sanitation**

In forced sales made by authorities and entities authorized by law, the reimbursement is limited to restitution of the price produced by the transfer.

### **Chapter two: Sanitation by eviction**

#### **Article 1491.- Sanitation by eviction**

The reorganization is due by eviction when the acquirer is totally or partially deprived of the right to property, use or possession of a good by virtue of a final judicial or administrative resolution and by reason of a third party's right, prior to the transfer.

#### **Article 1492.- Eviction by trespassing or abandonment**

Eviction occurs when the purchaser, with the consent of the transferor, acquiesces in the claim or abandons the property without waiting for the resolution referred to in article 1491.

### **Article 1493.- Release of the transferor**

If the acquirer, with the consent of the transferor, has avoided the eviction by means of a payment, the transferor can free himself from all the consequences of the reorganization with the reimbursement of the amount paid, of the interest, of all the expenses incurred by the acquirer and of the compensation referred to in article 1495, paragraph 7.

### **Article 1494.- Inadmissibility of the reorganization**

There is no place for remediation due to eviction when the right of the third party becomes enforceable by fraud or inexcusable fault of the purchaser.

### **Article 1495.- Rights of the acquirer by virtue of the reorganization**

The acquirer has, by virtue of the reorganization, the right to ask the transferor:

1. The value of the property at the time of eviction, taking into account the purpose for which it was acquired.
2. The legal interests since the eviction occurs.
3. The fruits accrued for the good during the time that he owned it in good faith or its value, if he was obliged to return them with the same good.
4. The costs of the eviction trial, in case of having been forced to pay them.
5. The taxes and expenses of the contract that have been borne by the acquirer.
6. All improvements made in good faith by the purchaser, not paid for by the obligee.
7. Compensation for damages, when the transferor incurred fraud or fault when entering into the contract.

### **Article 1496.- Improvements made by the transferor**

If the improvements are paid to the purchaser, having been made by the transferor, their value will be considered on account of what the purchaser has to pay to him.

### **Article 1497.- Waiver of sanitation due to eviction**

When it is agreed that the transferor is not subject to the obligation of reorganization by eviction, if this occurs, he must return the consideration received, unless the acquirer expressly waives said return. This waiver is not valid if the transferor acted with intent or inexcusable fault.

### **Article 1498.- Notification of the claim to the transferor.**

Once an eviction trial has been promoted, the purchaser is obliged to request, within the term to answer the claim, that it be notified to the transferor designated by him.

### **Article 1499.- Substitute and coadjuvant intervention in the process**

If the transferor goes to trial, he will take the place of the acquirer as defendant until the conclusion of the trial.

When the acquirer requests it, they can assist in the defense.

### **Article 1500.- Loss of the right to sanitation**

The acquirer loses the right to demand the reorganization:

1. If he did not ask and take care that the transferor be summoned with the demand for the eviction trial.
2. If the case was submitted to arbitration without consent of the transferor and lost.
3. If he compromised the trial without the consent of the transferor.
4. If, when entering into the contract, he knew that the property was disputed or foreign.
5. Due to expiration, the term of which is one year from the date on which the eviction occurred.

### **Article 1501.- Partial Eviction**

In the event of partial eviction, the purchaser is entitled to receive the value of the part of the property whose right is lost. However, you can choose to terminate the contract, if that part is of such importance to the whole that it makes it useless for the purpose of the acquisition.

### **Article 1502.- Eviction in interdependent assets**

The acquirer may exercise the optional power of article 1501 when two or more interdependent assets are transferred or jointly, if by reason of eviction he loses the right over any of them.

The right referred to in the preceding paragraph governs even when an individual value has been indicated for each of the transferred assets.

## **Chapter Three: Sanitation for hidden defects**

### **Article 1503.- Obligation to clean up for hidden defects**

The transferor is obliged to correct the hidden defects existing at the time of the transfer.

#### **Article 1504.- Vices knowable by the purchaser**

Hidden defects are not considered to be those that the purchaser may learn by acting with the due diligence in accordance with his personal aptitude and the circumstances.

#### **Article 1505.- Sanitation due to lack of promised qualities**

There is room for reorganization when the asset lacks the qualities promised by the transferor that gave it value or made it fit for the purpose of the acquisition.

#### **Article 1506.- Hidden defect in the joint transfer**

When two or more goods are transferred jointly, the vice of each will give the right to the corresponding action and will not extend to the others, unless the acquirer had not acquired the other or others without the one suffering from the vice. The latter is presumed when a shot, team, pair, game or the like is acquired, even if a separate value had been indicated for each of the assets that comprise it.

#### **Article 1507.- Sanitation in main goods and accessories**

When main goods and accessories are transferred, the vices affecting the former lead to the reorganization of these and accessories, but not vice versa.

#### **Article 1508.- Vices in fungible assets**

The purchaser of a defective fungible asset may demand, in substitution of the reorganization, the delivery of another of the same nature.

#### **Article 1509.- Hidden charges, limitations or encumbrances**

There is room for reorganization when there are hidden charges, limitations or encumbrances and of which no news was given when the contract was concluded, if these are of such importance that they reduce the value of the property, make it useless for the purpose of its acquisition or reduce its qualities for that effect.

#### **Article 1510.- Sanitation due to non-existence of active easements**

There is also room for reorganization when there are no active easements declared by the transferor at the time of the contract, which would make the asset suitable for the purpose of its acquisition.

### **Article 1511.- Redhibitory action**

The acquirer may request, by reason of the reorganization to which the transferor is obliged, the termination of the contract.

### **Article 1512.- Effects of the resolution**

The resolution referred to in article 1511 imposes on the transferor the obligation to pay the acquirer:

1. The value that the asset would have at the time of resolution, if the defect that affects it did not exist, taking into account the purpose of the acquisition.
2. The legal interests from the moment of the summons with the demand.
3. The expenses or taxes of the contract paid by the acquirer.
4. The fruits of the good that were pending at the time of resolution.
5. The compensation for damages and losses, when the transferor has incurred intent or fault with respect to the existence of the defects.

### **Article 1513.- Estimated action**

The acquirer may choose to request that what the asset is worth less be paid, due to a defect, at the time the payment action is exercised, taking into account the purpose of its acquisition, without prejudice to the right contemplated in article 1512, subsection 5.

### **Article 1514.- Expiration of the redhibitory and estimated actions**

The shares referred to in articles 1511 and 1513 expire after three months in the case of movable property and after six months in real estate.

The terms are computed from the moment the goods are received.

### **Article 1515.- Vices of little importance**

In the case of minor defects, the transferor can offer to correct them, if this is possible. If the offer is rejected by the purchaser, the purchaser may only attempt the estimating action, losing the prohibition.

### **Article 1516.- Loss of the transferor due to loss of property**

The transferor suffers the damage of the loss of the property if it perishes totally due to the hidden defects that it had.

### **Article 1517.- Loss due to the acquirer's fault**

The transferor is free of liability if the defect that caused the loss of the property had this effect exclusively through the fault of the acquirer, even if it had already existed at the time of the transfer.

### **Article 1518.- Loss due to unforeseeable circumstances or force majeure**

The transferor is free of responsibility if the property that suffers from a vice is lost due to unforeseeable circumstances or force majeure.

### **Article 1519.- Renunciation of sanitation for hidden defects**

When it is agreed that the transferor is not subject to the obligation of reorganization due to hidden defects, if the property is lost due to these defects, it must return the consideration, unless the acquirer expressly waives it.

### **Article 1520.- Nullity of resignation to sanitation**

The waiver of the reorganization is void when the transferor acts with intent or inexcusable guilt regarding the existence of defects in the asset at the time the contract is signed or the waiver is agreed.

### **Article 1521.- Hidden defects in the transfer of animals**

In the transfer of animals, sanitation for hidden defects is regulated by special laws or, failing that, by uses. In the absence of the latter, the above rules will be observed.

### **Article 1522.- Inadmissibility of sanitation in the transfer of animals**

There is no place for sanitation for hidden vice in the transfer of animals and livestock made at a fair or public auction, nor in those of discarded cavalry or in equivalent circumstances.

### **Article 1523.- Guarantee of good functioning**

If the transferor guarantees the proper functioning of the transferred asset for a certain time, the acquirer who alleges a defect or a defect in operation must notify the transferor within seven days of discovery; and can initiate the corresponding action within a period of two months from the date of communication.

## **Chapter Four: Reorganization due to the transferor's own act**

### **Article 1524.- Sanitation by own fact**

The transferor is obliged to reorganize by his own act that decreases the value of the property, renders it useless for the purpose of its acquisition, or reduces its qualities for that purpose.

### **Article 1525.- Redhibitory and estimated actions**

Due to the reorganization due to the transferor's own act, the acquirer may exercise the actions provided for in articles 1511 and 1513. These actions are exclusive.

### **Article 1526.- Expiration periods**

The terms of the actions referred to in article 1525 are those indicated in article 1514.

### **Article 1527.- Exception of sanitation**

If the transferor files a legal action intended to enervate any of the rights over the property that correspond to the acquirer by virtue of the contract, the latter has the power to deduct the exception of reorganization, the purpose of which is to definitively end the trial.

### **Article 1528.- Nullity of the pact of release or limitation of sanitation**

The agreement by means of which it is intended to release or limit the obligation of reorganization of the transferor by a voluntary act of his is null.

However, it may be valid, in the judgment of the judge, the exoneration or limitation of the reorganization for specific facts, whose justification must be expressed in the contract.

## **Section Two: Nominated Contracts**

### **Title I: Sale**

#### **Chapter one: General provisions**

### **Article 1529.- Definition**

By buying and selling the seller is obliged to transfer ownership of a good to the buyer and the buyer to pay its price in money.

### **Article 1530.- Delivery and transport costs**

Delivery costs are borne by the seller and transportation costs to a place other than the place of fulfillment are borne by the buyer, unless otherwise agreed.

### **Article 1531.- Conditions of the contract**

If the price of a transfer is set partly in money and partly in another asset, the contract will be qualified according to the manifest intention of the contracting parties, regardless of the name given to it.

If the intention of the parties is not established, the contract is a swap contract when the value of the asset is equal to or exceeds that of the money; and of sale, if it is less.

## **Chapter Two: The Good Matter of Sale**

### **Article 1532.- Goods susceptible of purchase - sale**

Existing or potentially existing assets can be sold, provided they are determined or capable of being determined and the sale of which is not prohibited by law.

### **Article 1533.- Partial death of the property**

If when the sale was made a part of the property had perished, the buyer has the right to withdraw from the contract or a reduction for the impairment, in proportion to the price that was set for the whole.

### **Article 1534.- Purchase and sale of future assets**

In the sale of an asset that both parties know is future, the contract is subject to the condition precedent that it comes into existence.

### **Article 1535.- Risk of quantity and quality of the future good**

If the buyer assumes the risk of the quantity and quality of the future good, the contract is also subject to the suspensive condition that it comes into existence.

However, if the good comes into being, the contract will produce all its effects from that moment, whatever its quantity and quality, and the buyer must pay the price in full.

### **Article 1536.- Buying and selling of uncertain hope**

In the cases of articles 1534 and 1535, if the buyer assumes the risk of the existence of the good, the seller is entitled to the entire price, even if it does not exist.

### **Article 1537.- Commitment to sell someone else's property**

The contract by which one of the parties undertakes to obtain that the other acquires ownership of an asset that both know is foreign, is governed by articles 1470, 1471 and 1472.

### **Article 1538.- Conversion of the commitment to sell someone else's property into purchase - sale**

In the case of article 1537, if the party that has agreed later acquires ownership of the property, it is obliged by virtue of the same contract to transfer said property to the creditor, without an agreement to the contrary being valid.

### **Article 1539.- Termination of the commitment to sell someone else's property**

The sale of someone else's property is rescindible at the request of the buyer, unless he had known that it did not belong to the seller or when the seller acquires the property, before the summons with the demand.

### **Article 1540.- Purchase and sale of partially foreign assets**

In the case of article 1539, if the property is partially foreign, the buyer can choose between requesting the termination of the contract or the reduction of the price.

### **Article 1541.- Effects of termination**

In the rescission cases referred to in articles 1539 and 1540, the seller must return the price received to the buyer, and pay compensation for damages suffered.

It must also reimburse the expenses, interests and taxes of the contract actually paid by the buyer and all the improvements introduced by it.

### **Article 1542.- Acquisition of goods in premises open to the public**

Movable property acquired in stores or premises open to the public cannot be claimed if they are covered by invoices or policies from the seller. The right of the injured party to exercise the corresponding civil or criminal actions against the person who improperly sold them remains safe.

## **Chapter Three: The Price**

**Article 1543.- Nullity for a price fixed unilaterally**

The sale is void when the determination of the price is left to the discretion of one of the parties.

**Article 1544.- Determination of the price by third party**

The sale is valid when the determination of the price is entrusted to a third party designated in the contract or to be designated later, the rules established in articles 1407 and 1408 being applicable.

**Article 1545.- Determination of the price in the stock market or market**

The sale is also valid if it is agreed that the price is that of the good in the stock market or market, in a certain place and day.

**Article 1546.- Automatic price readjustment**

It is lawful for the parties to set the price subject to the provisions of the first paragraph of article 1235.

**Article 1547.- Setting the price in case of silence of the parties**

In the sale of goods that the seller usually sells, if the parties have not determined the price or agreed on how to determine it, the price normally established by the seller governs.

In the case of goods that have a stock or market price, it is presumed, in the absence of an express indication of the price, that the place where the delivery must be made governs.

**Article 1548.- Price determined by net weight**

In the sale in which the price is set by weight, in the absence of an agreement, it is understood that it refers to the net weight.

**Chapter Four: Seller's Obligations****Article 1549.- Transfer perfection**

It is the essential obligation of the seller to perfect the transfer of ownership of the property.

**Article 1550.- State of the property at the time of delivery**

The good must be delivered in the state in which it is found at the time the contract is signed, including its accessories.

#### **Article 1551.- Delivery of documents and titles of the good sold**

The seller must deliver the documents and titles related to the ownership or use of the good sold, unless otherwise agreed.

#### **Article 1552.- Opportunity to deliver the property**

The good must be delivered immediately after the contract is concluded, except for the delay resulting from its nature or from a different agreement.

#### **Article 1553.- Place of delivery of the good**

In the absence of a stipulation, the property must be delivered to the place where it is at the time the contract is signed. If the property is uncertain, delivery will be made at the seller's address, once its determination is made.

#### **Article 1554.- Delivery of fruits of the good**

The seller responds to the buyer for the fruits of the good, in case of being guilty of the delay in delivery. If there is no fault, he responds for the fruits only if he has perceived them.

#### **Article 1555.- Delay in delivery of fruits**

If at the time the contract was concluded, the buyer knew of the obstacle that delayed delivery, article 1554 does not apply, nor is the seller liable for compensation for damages.

#### **Article 1556.- Resolution for non-delivery**

When the sale is resolved due to non-delivery, the seller must reimburse the buyer for the taxes and expenses of the contract that he had paid and indemnify him for the damages.

#### **Article 1557.- Extension of terms due to delay in delivery of the good**

Delayed delivery of the good by the seller in a contract whose price must be paid in installments, these are extended for the time of the delay.

### **Chapter five: Obligations of the buyer**

### **Article 1558.- Time, form and place of payment of the price**

The buyer is obliged to pay the price at the time, in the manner and place agreed.

In the absence of an agreement and except for various uses, it must be paid in cash at the time and place of delivery of the property. If payment cannot be made at the place where the goods were delivered, it will be made at the buyer's address.

### **Article 1559.- Resolution for non-payment of the balance**

When part of the price has been paid and the contract did not stipulate a period for the cancellation of the balance, the seller can exercise the right contemplated in article 1429. Once the contract is terminated, the seller must return the part of the price paid, deducting taxes and contract expenses.

### **Article 1560.- Resolution due to lack of guarantee for the balance**

The provisions of article 1559 will be observed if the contract is resolved because the guarantee due for the balance of the price has not been granted within the agreed period.

### **Article 1561.- Non-compliance with payment for armed**

When the price must be paid for assemblies in various installments, if the buyer fails to pay three of them, successive or not, the seller may request the resolution of the contract or demand the debtor immediate payment of the balance, giving up the installments that were slopes.

### **Article 1562.- Inadmissibility of the resolution action**

The parties may agree that the seller loses the right to opt for the termination of the contract if the buyer had paid a certain part of the price, in which case the seller may only choose to demand payment of the balance. "

### **Article 1563.- Effects of the resolution for non-payment**

The termination of the contract for breach of the buyer gives rise to the seller returning what was received, having the right to equitable compensation for the use of the property and compensation for damages, unless otherwise agreed.

Alternatively, it may be agreed that the seller makes his own, by way of compensation, some of the armed forces he has received, applying in this case the pertinent provisions on the obligations with a penal clause.

### **Article 1564.- Resolution of the sale of personal property not delivered**

In the sale of movable property not delivered to the buyer, if the buyer does not pay the price, in whole or in part, or grant the guarantee to which he is bound, the seller may dispose of the property. In this case, the contract is fully terminated.

### **Article 1565.- Opportunity of the obligation to receive the good**

The buyer is obliged to receive the good within the term established in the contract, or in the one indicated by the uses.

In the absence of an agreed term or different uses, the buyer must receive the good at the time of the contract.

### **Article 1566.- Sale of registered personal property**

Contracts for the purchase and sale of movable property in installments registered in the corresponding registry are governed by the law on the matter.

## **Chapter Six: Risk Transfer**

### **Article 1567.- Transfer of risk**

The risk of loss of certain goods, not attributable to the contracting parties, passes to the buyer at the time of delivery.

### **Article 1568.- Transfer of risk before delivery**

In the case of article 1567, the risk of loss passes to the buyer before delivery of the goods if, being at his disposal, he does not receive them at the time indicated in the contract for delivery.

### **Article 1569.- Transfer of risk in the sale by weight, number or measure**

In the case of the sale of goods by weight, number or measure, article 1568 will apply if, when the goods are at their disposal, the buyer does not attend at the time indicated in the contract or determined by the seller to weigh, count or measure them. , as long as they are available to you.

### **Article 1570.- Transfer of risk due to dispatch of the good to a place other than the delivery**

If, at the request of the buyer, the seller dispatches the good to a place other than the one where it was to be delivered, the risk of loss passes to the buyer from the moment it is dispatched.

## **Chapter 7: Sale to the satisfaction of the buyer, on trial and on sample**

### **Article 1571.- Sale to satisfaction**

The sale of goods to the satisfaction of the buyer is perfected only when he declares his agreement.

The buyer must make his declaration within the term stipulated in the contract or by the uses or, failing that, within a reasonable period of time set by the seller.

### **Article 1572.- Proof of sale**

The trial sale is considered made under the suspensive condition that the good has the agreed qualities or is suitable for the purpose for which it is intended.

The test must be carried out within the term and according to the conditions established in the contract or by the uses.

If the test is not carried out or the result of it is not communicated to the seller within the indicated period, the condition will be considered fulfilled.

### **Article 1573.- Sale on sample**

If the sale is made on a sample, the buyer has the right to terminate the contract if the quality of the good is not in accordance with the sample or that known in the trade.

## **Chapter eight: Buying and selling on measure**

### **Article 1574.- Sale by extension or capacity**

In the sale of a good with the indication of its extension or capacity and for a price based on a certain amount for each unit of extension or capacity, the seller is obliged to deliver to the buyer the amount indicated in the contract. If this is not possible, the buyer is obliged to pay what is found in excess, and the seller to return the price corresponding to what is found in short.

### **Article 1575.- Termination of the sale on measure**

If the excess or lack in the extension or capacity of the good sold is greater than one tenth of that indicated in the contract, the buyer can opt for its termination.

### **Article 1576.- Term for payment of excess or refund**

When in the case of article 1574 the buyer cannot immediately pay the price of the excess that resulted, the seller is obliged to grant him a period of no less than thirty days for payment.

If it does not, the term will be determined by the judge, incidentally, according to the circumstances.

The same rule applies, where appropriate, for the seller to return the resulting difference.

#### **Article 1577.- Buying and selling ad corpus**

If the good is sold by fixing a price for the whole and not according to its extension or capacity, even when this is indicated in the contract, the buyer must pay the entire price even though it is verified that the real extension or capacity is different.

However, if the extension or capacity was indicated in the contract, and the actual one differs from that indicated by more than one tenth, the price will suffer a proportional reduction or increase.

#### **Article 1578.- Sale of homogeneous goods**

If in the sale of several homogeneous goods for a single and same price, but with an indication of their respective extensions or capacities, it is found that the extension or capacity is higher in one or some and lower in another or others, compensation will be made between the faults and the excesses, up to the limit of their concurrence.

If the price was agreed by unit of extension or measure, the right to the supplement, or to the decrease in the price that results after the compensation is made, is regulated by articles 1574 to 1576.

#### **Article 1579.- Expiration of the rescission action**

The seller's right to increase the price and the buyer's to decrease it, as well as the latter's right to request the termination of the contract, expire six months after the buyer receives the property.

### **Chapter nine: Purchase of documents**

#### **Article 1580.- Sale of documents**

In the sale of documents, the delivery of the property is replaced by that of its representative title and by the other documents required by the contract or, failing that, by the uses.

#### **Article 1581.- Opportunity and place of payment**

Payment of the price must be made at the time and at the place of delivery of the documents indicated in article 1580, except for a different agreement or use.

## Chapter 10: Agreements that can integrate the sale

### Subchapter I: General provision

#### **Article 1582.- Facts that cannot integrate the sale**

You can integrate the sale of any lawful agreement, with the exception of the following, which are void:

1. The best buyer agreement, by virtue of which the sale can be rescinded by agreeing that, if there is someone who gives more for the good, the buyer will return it.
2. The pact of preference, by virtue of which the buyer is obliged to offer the good to the seller for as much as another proposes, when he intends to dispose of it.

### Subchapter II: Sale with reservation of ownership

#### **Article 1583.- Purchase and sale with reservation of ownership**

In the sale, it can be agreed that the seller reserves the property of the property until the entire price or a certain part of it has been paid, even if the property has been delivered to the buyer, who assumes the risk of its loss or deterioration from the moment Of the delivery.

The buyer automatically acquires the right to ownership of the property with the payment of the agreed price.

#### **Article 1584.- Opposition of the property reservation agreement.**

The reservation of property is enforceable against the buyer's creditors only if it is established in writing that it has a certain date prior to the seizure.

In the case of registered assets, the reservation of ownership is enforceable against third parties provided that the agreement has been previously registered.

#### **Article 1585.- Reservation of property in lease - sale**

The provisions of articles 1583 and 1584 are applicable to the lease contracts in which it is agreed that, at the end of the same, the property of the asset is acquired by the lessee as a result of the payment of the agreed conductive grant.

## Subchapter III: Redemption Agreement

### **Article 1586.- Definition**

By reselling, the seller acquires the right to unilaterally terminate the contract, without the need for a judicial decision.

### **Article 1587.- Nullity of stipulations in the resale agreement**

The stipulation that imposes on the seller, in return for the termination of the contract, the obligation to pay the buyer an amount of money or other advantage for the buyer is null.

The stipulation that obliges the seller to return, in the event of termination of the contract, an additional sum other than that intended to preserve the purchasing value of the price is also void, in terms of excess.

### **Article 1588.- Term to exercise the right of resolution**

The term to exercise the right of resolution is two years in the case of real estate and one year in the case of furniture, unless the parties stipulate a shorter term.

The term is computed from the conclusion of the sale. If the parties agree to a term greater than that indicated in the first paragraph of this article or extend the term to be greater than two years or one year, as the case may be, the term or the extension is considered reduced to the legal term.

The buyer has the right to retain the property until the seller reimburses him for necessary and useful improvements.

### **Article 1589.- Redemption of undivided assets**

Those who have jointly sold an undivided asset with a resale agreement, and the heirs of the one who has sold with the same agreement, cannot use their right separately, but jointly.

### **Article 1590.- Re-sale in separate sale**

When the co-owners of an undivided asset have separately sold their shares in the co-ownership with a resale agreement, each of them can exercise, with the same separation, the right to terminate the contract by their respective participation.

### **Article 1591.- Opposition of the resale**

The resale agreement is enforceable against third parties when it is registered in the corresponding registry.

## **Eleventh Chapter : Right of withdrawal**

### **Article 1592.- Definition**

The right of withdrawal is what the law grants to certain people to subrogate in the place of the buyer and in all the stipulations of the sale contract.

The retractor must reimburse the purchaser for the price, taxes and expenses paid by him and, where appropriate, the agreed interest.

The retraction in sales made by public auction is inadmissible.

### **Article 1593.- Withdrawal in dation in payment**

The right of withdrawal also applies in the dation in payment.

### **Article 1594.- Origin of the right of withdrawal**

The right of withdrawal proceeds with respect to registered personal property and real estate.

### **Article 1595.- Irrevocability and intransmissibility**

The right of withdrawal is inalienable and intransmissible by act between living.

### **Article 1596.- Term to exercise the right of withdrawal**

The right of withdrawal must be exercised within a period of thirty days from the communication of the certain date to the person who enjoys this right.

When your address is not known or knowable, communication can be made through publications in the newspaper in charge of judicial notices and in another with the largest circulation in the town, three times with an interval of five days between each notice. In this case, the period is counted from the day after the last publication.

### **Article 1597.- Special period to exercise the right of withdrawal**

If the retractor knows of the transfer by any means other than that indicated in article 1596, the term is counted from the date of such knowledge. In this case, the presumption contained in article 2012

is only enforceable after one year from the registration of the transfer.

### **Article 1598.- Guarantee in retraction**

When the price of the good was agreed in installments, the granting of a guarantee for the payment of the pending price is mandatory, although the contract that gives rise to the withdrawal had not been agreed.

### **Article 1599.- Holders of the right of withdrawal**

They have the right of withdrawal:

1.- Repealed

2.- The co-owner, in the sale to a third party of the undivided portions.

3.- The litigant, in the event of the sale on the contrary of the property that is being judicially discussed.

4.- The owner, in the sale of the usufruct and vice versa.

5.- The owner of the land and the surface, in the sale of their respective rights.

6.- The owners of urban properties materially divided into parts, who cannot exercise their proprietary rights without subjecting the other parts of the property to easements or services that diminish its value.

7.- The owner of the adjoining land, in the case of the sale of a rustic property whose capacity does not exceed the respective minimum agricultural or livestock unit, or when the former and the latter together do not exceed said unit.

### **Article 1600.- Order of priority of the retractors**

If there is diversity in the titles of two or more who have the right of withdrawal, the order of preference will be that indicated in article 1599.

### **Article 1601.- Withdrawal in successive alienation**

When two or more transfers have been made before the expiration of the term to exercise the withdrawal, this right refers to the first transfer only for the price, taxes, expenses and interests thereof. The other disposals are without effect.

## **Title II: Swap**

### **Article 1602.- Definition**

By the swap, the exchangers are obliged to reciprocally transfer ownership of goods.

### **Article 1603.- Rules applicable to the exchange.**

The swap is governed by the provisions on sale, as applicable.

## **Title III: Supply**

### **Article 1604.- Definition**

By supplying, the supplier undertakes to execute periodic or continuous provision of goods in favor of another person.

### **Article 1605.- Proof and formality of the supply contract**

The existence and content of the supply may be proven by any of the means permitted by law, but if it had been concluded in writing, the merit of the respective instrument will prevail over all other means of proof.

When the contract is concluded as a liberality, it must be formalized in writing, under penalty of nullity.

### **Article 1606.- Volume and undetermined periodicity**

When the supply volume or its periodicity has not been established, it is understood that it has been agreed taking into account the needs of the supplier, determined at the time of the conclusion of the contract.

### **Article 1607.- Determination of the supplied**

If the contracting parties determine only the minimum and maximum limits for the total supply or for individual services, it is the responsibility of the supplier to establish the volume due within these limits.

### **Article 1608.- Payment of the price in the periodic supply**

In the periodic supply, the price is paid on the spot for the singular services and in proportion to each one of them.

#### **Article 1609.- Determination of the price in the periodic supply**

If the price has not been determined in the periodic delivery of property goods, the pertinent rules of the sale will be applicable and the moment of expiration of the singular services and the place where they must be fulfilled will be taken into consideration .

#### **Article 1610.- Payment of the price in the continuous supply**

In the continuous supply, the price is paid, in the absence of an agreement, according to the uses of the market.

#### **Article 1611.- Term for singular benefits**

The term established for individual benefits is presumed in the interest of both parties.

#### **Article 1612.- Expiration of singular benefits**

When the beneficiary of the supply has the power to set the expiration of the singular benefits, he must notify the supplier of its date with a prior notice of no less than seven days.

#### **Article 1613.- Supply of indeterminate term**

If the duration of the supply is not established, each of the parties may separate from the contract by giving prior notice within the agreed period, or, failing that, within a period of no less than thirty days.

#### **Article 1614.- Pact of preference**

If the preference clause has been agreed in favor of the supplier or the supplier, the duration of the obligation will not exceed five years and is reduced to this limit if a longer term has been set.

#### **Article 1615.- Proposal and exercise of preference**

In the case provided for in article 1614, the party that has the preference must undoubtedly communicate to the other the conditions proposed by third parties. The beneficiary of the preference agreement, in turn, is obliged to express, within the mandatory period set, his decision to assert the preference.

**Article 1616.- Exclusivity of the supplier**

When in the supply contract the exclusivity clause has been agreed in favor of the supplier, the beneficiary of the supply cannot receive benefits of the same nature from third parties, nor provide them with their own means for the production of the things that constitute the object of the benefit.

**Article 1617.- Exclusivity of the supplied**

If the exclusivity clause is agreed in favor of the beneficiary of the supply, the supplier cannot, directly or indirectly, carry out services of the same nature as those that are the subject of the contract, in any other place.

**Article 1618.- Failure to promote the sale**

The beneficiary of the supply who assumes the obligation to promote the sale of the goods that he has exclusively is liable for damages if he fails to comply with that obligation, even when he has satisfied the contract with respect to the minimum amount agreed.

**Article 1619.- Non-compliance of little importance**

If the beneficiary of the supply does not fulfill its obligation and this breach is minor, the supplier cannot suspend the performance of the contract without giving prior notice.

**Article 1620.- Resolution of the supply**

When one of the parties fails to comply with the specific services to which it is obliged, the other may request the termination of the contract if the breach is of such importance that confidence in the accuracy of the successive performances is diminished.

**Title IV: Donation****Article 1621.- Definition**

By donating, the donor agrees to transfer the property of an asset free of charge to the donee.

**Article 1622.- Donation mortis causa**

The donation that must produce its effects due to the death of the donor, is governed by the rules established for testamentary succession.

**Article 1623.- Verbal donation of movable property**

The donation of personal property can be made verbally, when its value does not exceed 25% of the Tax Unit, in force at the time the contract is signed.

#### **Article 1624.- Donation in writing of movable property**

If the value of the movable property exceeds the limit set in article 1623, the donation must be made in writing on a certain date, under penalty of nullity.

The instrument must specify and value the goods that are donated.

#### **Article 1625.- Donation of real estate**

The donation of real estate must be made by public deed, with an individual indication of the donated property or properties, of its real value and that of the charges that the donee has to satisfy, under penalty of nullity.

#### **Article 1626.- Donation of furniture for nuptials**

The donation of movable property on the occasion of weddings or similar events is not subject to the formalities established by articles 1624 and 1625.

#### **Article 1627.- Commitment to donate someone else's good**

The contract by virtue of which a person is obliged to obtain that another freely acquires the property of an asset that both know is foreign, is governed by articles 1470, 1471 and 1472.

#### **Article 1628.- Donation in favor of a guardian or curator**

The donation in favor of the person who has been the tutor or curator of the donor is subject to the condition precedent of being approved the accounts and paying the balance resulting from the administration.

#### **Article 1629.- Donation limits**

No one can give by way of donation, more than he can dispose of by will.

The donation is invalid in everything that exceeds this measure.

The excess is regulated by the value that the assets have or should have at the time of the donor's death.

#### **Article 1630.- Joint donation**

When the donation has been made to several people jointly, it will be understood in equal parts and the right to increase will not be given between them.

Donations made jointly to husband and wife are exempted from this provision, among which the right of accretion will take place, if the donor did not provide otherwise.

#### **Article 1631.- Joint donation**

Reversal can be established only in favor of the donor. The one stipulated in favor of a third party is null; but it will not produce the nullity of the donation.

#### **Article 1632.- Tacit waiver of the reversion**

The donor's consent to the disposal of the assets that constituted the donation determines the waiver of the right of reversion. The consent of the donor to the constitution of a real guarantee by the donee does not imply the waiver of the right of reversion but in favor of the creditor.

#### **Article 1633.- Benefit of the impoverished donor**

The donor who has lost his fortune can only be exempted from delivering the donated good in the part necessary for his food.

#### **Article 1634.- Invalidity of donation**

The donation made by a person who did not have children is null and void, if the child of the donor who was deemed dead is alive.

The donation made by those who did not have children at the time of signing the contract, is not invalidated if they occur, unless this condition is expressly established.

#### **Article 1635.- Effects of the invalidation**

Once the donation is invalidated, the donated property is restored to the donor, or its replacement value if the donee had alienated it or could not be restored.

If the donated asset is encumbered, the donor releases the encumbrance by paying the corresponding amount and is subrogated to the creditor's rights.

#### **Article 1636.- Exception to full right disability**

The donation is not invalidated by right in the case of article 1634 when the value of the donated property does not exceed one-tenth of the property that the donor had at the time of making the donation. In this case, it is necessary for the donor to declare it without effect.

#### **Article 1637.- Revocation of donation**

The donor can revoke the donation for the same reasons of unworthiness to succeed and disinheritance.

#### **Article 1638.- Non-transferability of the revocation**

The power to revoke the donation does not pass to the heirs.

#### **Article 1639.- Expiration of the revocation**

The power to revoke the donation expires six months after any of the causes of article 1637 occurred.

#### **Article 1640.- Communication of the revocation**

The revocation does not take effect if within sixty days of being made by the donor, the donee or his heirs are not undoubtedly communicated.

#### **Article 1641.- Contradiction of the revocation**

The donee or his heirs may contradict the causes of revocation so that a judicial decision can be made on their merits. The revocation that is not contradicted within sixty days after it is undoubtedly communicated to the donee or his heirs will be consummated.

#### **Article 1642.- Invalidity of remunerative donation or subject to charge**

In the case of remunerative or chargeable donations, their invalidation or revocation determines the donor's obligation to pay the donee the value of the service rendered or the charge paid.

#### **Article 1643.- Fruits due to revocation or invalidation**

The fruits of the revoked donations belong to the donor as soon as the revocation is undoubtedly communicated; and in the event of full right invalidation, as soon as the demand for the return of the donated property is cited.

#### **Article 1644.- Expiration of the donation**

The donation expires if the donee intentionally causes the death of the donor.

#### **Article 1645.- Inappropriate donation**

If the donations exceed the available portion of the inheritance, those of the most recent date are suppressed or reduced in excess, or pro rata, if they were of the same date.

#### **Article 1646.- Donation by marriage**

The donation made by reason of marriage is subject to the condition that the act is celebrated.

#### **Article 1647.- Irrevocability of donation by marriage**

The donation referred to in article 1646 is not revocable due to ingratitude.

### **Title V: Mutual**

#### **Article 1648.- Definition**

Through the mutual, the borrower is obliged to deliver to the borrower a certain amount of money or consumable goods, in exchange for the return of others of the same kind, quality or quantity.

#### **Article 1649.- Proof and formality of the mutual**

The existence and content of the mutual are governed by the provisions of the first part of article 1605.

#### **Article 1650.- Mutual between spouses**

The mutual between spouses will be recorded by public deed, under penalty of nullity, when its value exceeds the limit provided by article 1625.

#### **Article 1651.- Mutual of representatives of the incapable or absent**

The representatives of the incapable or absent, to celebrate mutual representation of the people whose assets they administer, must observe the provisions of article 1307.

#### **Article 1652.- Mutual of incapable or absent**

In the case of article 1651, the intervention of the representatives or the fulfillment of the formalities of the transaction will not be necessary, as the case may be, when the value of the mutual asset does

not exceed ten times the minimum monthly living wage.

#### **Article 1653.- Delivery of a mutated asset**

The sponsor is obliged to make the delivery at the agreed time and, failing that, at the time the contract is concluded.

#### **Article 1654.- Effect of delivery**

With the delivery of the mutual asset, the property is transferred to the borrower and from this moment it corresponds to the improvement, deterioration or destruction that ensues.

#### **Article 1655.- Presumption of the good condition of the property**

Once the good has been received by the mutual, it is presumed that it is in a state to be used for its intended use.

#### **Article 1656.- Legal period of return**

When no deadline has been set for the return, nor does it result from the circumstances, it is understood that it is thirty days from delivery.

#### **Article 1657.- Judicial return period**

If it has been agreed that the mutual pay only when he can do so or has the means, the term will be set by the judge taking into account the circumstances and following the procedure established for the judgment of a minor amount.

#### **Article 1658.- Advance payment**

If it is agreed that the borrower does not pay interest or any other consideration to the borrower, he may make the payment before the stipulated period.

#### **Article 1659.- Place of performance**

The delivery of what is provided and its return will be made at the agreed place or, failing that, where it is customary to do so.

#### **Article 1660.- Place of performance in the absence of an agreement**

When no place or custom has been agreed, the delivery will be made at the place where the property is located and the return will be at the recipient's address.

#### **Article 1661.- Payment for impossibility of returning the good**

If the borrower cannot return goods similar in kind, quantity and quality to the one he received, he will satisfy his benefit by paying the value it had at the time and place in which the payment should have been made.

#### **Article 1662.- Payment after evaluation of the property**

If in the case of article 1661, the goods were evaluated at the time of the contract, the mutual is obliged to satisfy the value given to them, even if they are worth more or less at the time of payment.

#### **Article 1663.- Payment of interest**

The borrower must pay interest to the borrower, unless otherwise agreed.

#### **Article 1664.- Covert Usury**

If more than the amount actually delivered is declared received in the mutual, the contract is understood to have been entered into by the latter, with no effect on the excess.

#### **Article 1665.- False mutual**

When an amount of money is loaned that must be repaid in merchandise or vice versa, the contract is of sale.

### **Title VI: Leasing**

#### **Chapter one: General provisions**

#### **Article 1666.- Definition**

By leasing, the lessor is obliged to temporarily assign the use of an asset to the lessee for a certain agreed rent.

#### **Article 1667.- Power to lease goods**

The one who has this power with respect to the assets it manages can lease.

### **Article 1668.- Persons prevented from renting**

You cannot lease:

1. The administrator, the assets he manages .
2. He who by law is prevented.

### **Article 1669.- Leasing of undivided property**

The co-owner of an undivided property cannot lease it without the consent of the other shareholders. However, if you do, the lease is valid if the other co-owners ratify it expressly or tacitly.

### **Article 1670.- Priority between tenants**

When the same property is leased to two or more people, the tenant in good faith whose title has been first registered or, in the absence of registration, the one who has begun to own it, is preferred. If no one has started to own it, the tenant whose title is of a previous date will be preferred, unless that of one consists of a document of a certain date.

### **Article 1671.- Leasing of someone else's property**

If the tenant knew that the property was someone else's, the contract is governed by the provisions of articles 1470, 1471 and 1472.

### **Article 1672.- Prohibition of tenants**

The lessor cannot make innovations in the goods that reduce the use by the lessee.

### **Article 1673.- Repairs of leased property**

If in the course of the lease the property requires repairs that cannot be deferred until the end of the contract, the lessee must tolerate them even when they imply deprivation of the use of a part of it.

### **Article 1674.- Resolution or rent reduction**

When the tenant is prevented from using a part of the property to repair the property, he has the right to terminate the contract or to reduce the rent proportional to the time and the part he does not use.

### **Article 1675.- Restitution of leased personal property**

The leased personal property must be returned to the place where it was delivered, unless otherwise agreed.

### **Article 1676.- Payment of rent**

The payment of the rent can be agreed for periods due or advanced. In the absence of stipulation, it is understood that it has been agreed for expired periods.

### **Article 1677.- Financial leasing.**

The financial lease contract is governed by its special legislation and, additionally, by this title and articles 1419 to 1425, insofar as they are applicable.

## **Chapter two: Obligations of the lessor**

### **Article 1678.- Obligation to deliver the good**

The lessor is obliged to deliver the leased property with all its accessories to the lessee, in the agreed term, place and state.

If the time or place of delivery is not indicated in the contract, it must be carried out immediately where it was held, unless by custom it must be carried out in another place or time.

### **Article 1679.- Presumption of good condition**

Delivered the property to the lessee, it is presumed that it is in a state of service and with everything necessary for its use.

### **Article 1680.- Additional obligations to the lessor**

The landlord is also obliged:

1. To keep the lessee in the use of the property during the term of the contract and to keep it in good condition for the end of the lease.
2. To carry out all the necessary repairs during the lease, unless otherwise agreed.

## **Chapter three: Obligations of the lessee**

### **Article 1681.- Obligations of the lessee**

The lessee is obliged:

1. To receive the good, take care of it diligently and use it for the destination that was granted in the contract or to which the circumstances can be presumed.
2. To pay the rent on time at the agreed time and place and, in the absence of an agreement, every month, at your home.
3. To pay promptly for public services provided for the benefit of the property, subject to the rules that regulate them.
4. To give immediate notice to the landlord of any usurpation, disturbance or imposition of easement that is attempted against the property.
5. To allow the landlord to inspect the property for just cause, after seven days' notice.
6. To carry out the repairs that correspond to it in accordance with the law or the contract.
7. Not to make reckless use of goods or contrary to public order or good customs.
8. Not to introduce changes or modifications in the property, without the consent of the lessor.
9. Not to sublet the property, totally or partially, nor assign the contract, without the written consent of the lessor.
10. To return the property to the lessor at the expiration of the term of the contract in the state in which it was received, without further deterioration than that of its ordinary use.
11. To fulfill the other obligations established by law or the contract.

### **Article 1682.- Repair by lessee**

The lessee is obliged to give immediate notice to the lessor of the repairs to be carried out, under responsibility for the resulting damages.

In the case of urgent repairs, the lessee must carry them out directly with the right to reimbursement, provided they notify the lessor at the same time.

In all other cases, maintenance and ordinary maintenance expenses are borne by the lessee, unless otherwise agreed.

### **Article 1683.- Liability for loss and deterioration of the property**

The tenant is responsible for the loss and deterioration of the property that occur in the course of the lease, even when they derive from fire, if he does not prove that they have occurred for reasons not attributable to him.

It is also responsible for the loss and deterioration caused by causes attributable to the people who have admitted, even temporarily, to the use of the property.

### **Article 1684.- Loss and deterioration of insured assets**

If the property destroyed or damaged by fire had been insured by the lessor or on his behalf, the responsibility of the tenant towards the lessor is limited to the difference between the compensation paid or to be paid by the insurer and the actual damage.

If it is the valued property and the insurance has been set at an amount equal to the appraisal, there is no responsibility of the tenant towards the lessor, if he is compensated by the insurer.

In any case, the rules concerning the right of subrogation of the insurer remain safe.

### **Article 1685.- Loss and deterioration in plurality of tenants**

If there are several tenants, all are responsible for the loss or deterioration of the property in proportion to the value of the part they occupy, unless it is proven that the loss began in the room or part of the property leased to one of them, who, in In such case, you will be solely responsible.

### **Article 1686.- Responsibility of the occupying landlord**

If the landlord occupies any part of the property, he will be considered a tenant, with respect to the responsibility referred to in article 1685.

## **Chapter Four: Duration of the lease**

### **Article 1687.- Duration of the lease**

The lease can be of a fixed or indefinite duration.

### **Article 1688.- Maximum term of lease of determined duration**

The term of the fixed-term lease cannot exceed ten years.

When the leased asset belongs to public or incapacitated entities, the term cannot be greater than six years.

Any term or extension that exceeds the indicated terms is understood to be reduced to said terms.

### **Article 1689.- Presumptions of the fixed -term lease**

In the absence of an express agreement, it is presumed that the lease is of a fixed duration in the following cases and for the periods indicated:

1. When the lease has a specific purpose, it is understood as agreed for the time necessary to carry it out.
2. In the case of properties located in seasonal locations, the lease term will be one season.

### **Article 1690.- Lease of indeterminate duration**

The indefinite-term lease is said for months or another period, depending on how the rent is paid.

### **Article 1691.- Forced and voluntary periods**

The lease can be concluded for forced periods and voluntary periods, and these can be in favor of one or both parties.

## **Chapter Five: Sublease and assignment of the lease**

### **Article 1692.- Definition**

The sublease is the total or partial lease of the leased property that the lessee enters into in favor of a third party, in exchange for a rent, with the written consent of the lessor.

### **Article 1693.- Joint and several obligation of the parties**

Both the subtenant and the lessee are jointly and severally liable to the lessor for the obligations assumed by the lessee.

### **Article 1694.- Accessory of the sublease**

At the conclusion of the lease, the subleases whose terms have not expired are extinguished, leaving the right of the subtenant to demand the corresponding compensation from the lessee.

### **Article 1695.- Subsistence of the lease**

The sublease does not end if the lease ceases by consolidation in the person of the lessee and the lessor.

### **Article 1696.- Assignment of the lease**

The assignment of the lease constitutes the transmission of the rights and obligations of the lessee in favor of a third party who replaces him and is governed by the rules of the assignment of contractual position.

## **Chapter Six: Resolution of the lease**

## **Article 1697.- Causes of resolution**

The lease can be terminated:

- 1.- If the tenant has not paid the rent for the previous month and another month expires and also fifteen days. If the rent is agreed for longer periods, the expiration of a single period and also fifteen days is enough. If the rent is agreed for periods of less than one month, it is enough that three periods expire.
- 2.- In the cases provided for in subsection 1, if the tenant needed a judgment against him to pay all or part of the rent, and the following term expires in excess of fifteen days without having paid the new accrued rent.
- 3.- If the lessee gives the property a different destination from that for which it was expressly or tacitly granted, or allows an act contrary to public order or good customs.
- 4.- By subletting or assigning the lease against an express agreement, or without the written consent of the lessor.
- 5.- If the lessor or the lessee do not fulfill any of their obligations.

## **Article 1698.- Resolution for non-payment of rent**

The resolution for non-payment of rent is subject to the agreement, but in no case is it appropriate, in the case of houses-rooms included in special laws, if at least two monthly payments and fifteen days have not been met.

## **Chapter 7: Conclusion of the lease**

### **Article 1699.- End of a fixed -term lease**

The fixed-term lease ends at the expiration of the term established by the parties, without the need for prior notice from any of them.

### **Article 1700.- Continuation of a fixed -term lease**

Once the term of the contract has expired, if the tenant remains in the use of the leased property, it is not understood that there is tacit renewal, but rather the continuation of the lease, under the same stipulations, until the lessor requests its return, which can be requested at any time. moment.

### **Article 1701.- Conversion of voluntary periods into forced**

In the lease whose duration is agreed for forced periods for both parties and volunteers at the option of one of them, the voluntary periods will become mandatory one by one if the party to whom the option was granted does not notify the other that the Lease will end at the end of the forced periods or each of the volunteers.

The notice referred to in the preceding paragraph must be issued no less than two months in advance of the expiration date of the respective period, in the case of real estate, and no less than one month in the case of other assets.

#### **Article 1702.- Voluntary periods for both parties.**

If the contract establishes that the periods are voluntary for both parties, it is sufficient for either party to give the other the notice prescribed in article 1701 for the lease to conclude at the end of the forced periods.

#### **Article 1703.- End of the lease of indeterminate duration**

An indefinite duration lease is terminated by giving judicial or extrajudicial notice to the other contractor.

#### **Article 1704.- Enforceability of return of the property and collection of penalty**

Once the term of the contract has expired or the notice of termination of the lease has been issued, if the tenant does not return the property, the lessor has the right to demand its return and collect the agreed penalty or, failing that, a benefit equal to the rent of the preceding period, until its effective return. The collection of any of them will not matter the continuation of the lease.

#### **Article 1705.- Grounds for extrajudicial conclusion**

In addition, the lease is concluded, without the need for a judicial declaration, in the following cases:

1. When the landlord is defeated in judgment on the right he had.
2. If it is necessary for the conservation of the property that the tenant returns it in order to repair it.
3. For the total destruction or loss of the leased asset.
4. In case of expropriation.
5. If within ninety days of the death of the tenant, his heirs who use the property, notify the lessor that they will not continue the contract.

#### **Article 1706.- Consignment of the leased asset**

In any case of conclusion of the lease or the lessee having the right to resolve it, if he places the property at the disposal of the lessor and the lessor cannot or does not want to receive it, the latter may consign it.

#### **Article 1707.- Extinction of responsibility for consignment**

From the day the lessee makes the deposit, his responsibility for the rent is extinguished, unless the challenge to the deposit is declared well founded.

#### **Article 1708.- Disposal of the leased asset**

In the event of disposal of the leased asset, the following shall proceed:

1. If the lease is registered, the purchaser must respect the contract, being substituted from the moment of its acquisition in all the rights and obligations of the lessor.
2. If the lease has not been registered, the purchaser can terminate it.  
Exceptionally, the purchaser is obliged to respect the lease, if he assumed said obligation.
3. In the case of movable property, the purchaser is not obliged to respect the contract if he received its possession in good faith.

#### **Article 1709.- Responsibility for the asset alienated**

When the lease ends due to the sale of the leased asset, the lessor is obliged to pay the damages incurred by the lessee.

#### **Article 1710.- Continuation of the lease with the tenant's heirs**

If two or more heirs of the tenant use the property, and half or the greatest number of them do not express their will to terminate it, the contract continues for them, without any responsibility of the others.

In this case, the guarantees that were constituted in favor of the lessor do not subsist. However, the latter has the right to demand new guarantees; if they are not granted within fifteen days, the contract is concluded.

#### **Article 1711.- Authorization to vacate a leased property**

To vacate the property, the tenant must previously obtain written authorization from the lessor or, failing that, from the respective authority.

If the tenant vacates the property without any of these authorizations, he will be responsible:

1. Of the rent and of the payments for the services in his charge that accrue after the vacancy until the lessor takes possession of the property.
2. Of the corresponding damages .
3. That a third party gets into it.

### **Article 1712.- Special lease**

Lease contracts regulated by special laws are additionally governed by the rules of this title.

## **Title VII: Accommodation**

### **Article 1713.- Definition**

For the lodging, the host undertakes to provide the guest with lodging and, additionally, food and other services contemplated by law and customs, in exchange for a fee. This may be set in the form of a rate by the competent authority in the case of hotels, inns or other similar establishments.

### **Article 1714.- Subjection to regulations and general clauses**

The accommodation is also subject to the regulations and the general contracting clauses approved by the competent authority.

### **Article 1715.- Guest rights**

The guest has the right to demand from the host that the room present the normal cleaning and operating conditions and that the food, where appropriate, meet the appropriate quality and hygiene requirements.

### **Article 1716.- Display of rates**

The establishments destined for lodging will display in a visible place the rates and general contracting clauses that govern this contract.

### **Article 1717.- Right of retention**

Luggage and other goods delivered or brought in by the guest respond preferentially for the payment of the accommodation fee and for the damages and losses that it may have caused to the establishment, and the host may retain them until their cancellation.

### **Article 1718.- Responsibility of the host as depositary**

The host is responsible as the depositary for the money, jewelry, documents and other goods received in the custody of the host and must put in their care the ordinary diligence required by the nature of the obligation and that corresponds to the circumstances of the people, time and nature. place.

#### **Article 1719.- Responsibility of the host on objects of current use**

The host is also liable for objects of common use introduced by the guest, provided that he complies with the requirements of the notice that will be posted in a visible place in the rooms.

The competent authority will set the limit of liability.

#### **Article 1720.- Declaration of objects of common use**

The host has the right to request from the guest, within twenty-four hours of his arrival, a written statement of the objects of common use introduced, as well as to check their accuracy.

#### **Article 1721.- Refusal to custody of goods**

The host cannot refuse to receive in custody or to have the goods referred to in article 1718 be brought in, without just cause. They are considered such, the excessive value of the goods in relation to the importance of the establishment, as well as their nature as it constitutes an obstacle with respect to the capacity of the premises.

#### **Article 1722.- Extension of responsibility of the host**

The responsibility of the host for the custody of the deposited or introduced goods extends to the acts or omissions of the family members who work with him and their dependents.

#### **Article 1723.- Communication of theft, loss or deterioration of goods**

The guest is obliged to notify the host of the theft, loss or deterioration of the goods brought into the establishment as soon as they become aware of it. Failure to do so will exclude the responsibility of the host, except when such events are caused by fraud or inexcusable fault of the latter.

#### **Article 1724.- Release of responsibility of the host**

The host has no responsibility if he proves that the theft, loss or deterioration of the goods introduced by the guest is due to his sole fault or of those who visit, accompany or are his dependents or if it is caused by their nature or vice.

### **Article 1725.- Expiration of the host's credit**

The host's credit expires six months from the time the contract ends.

### **Article 1726.- Parking and similar services**

The additional parking service for vehicles or similar is governed by articles 1713 to 1725, insofar as they are applicable.

### **Article 1727.- Normative extension of lodging standards**

The provisions of articles 1713 to 1725 include hospitals, clinics and health or nursing homes, commercial establishments or public entertainment, spas, restaurants, clubs, ships, aircrafts, sleeping cars and the like, in whatever they are applicable.

## **Title VIII: Comodato**

### **Article 1728.- Definition**

For the loan, the lender is obliged to give the borrower a non-consumable good free of charge, so that he can use it for a certain time or for a certain purpose and then return it.

### **Article 1729.- Loan of consumable goods**

There is loan of a consumable good only if it is loaned on condition that it is not consumed.

### **Article 1730.- Proof of the loan**

The existence and content of the loan are governed by the provisions of the first part of article 1605.

### **Article 1731.- Presumption of the good condition of the good received**

It is presumed that the borrower receives the good in good condition of use and conservation, unless proven otherwise.

### **Article 1732.- Increase, impairment and loss of property**

The increase and impairment or loss of the property corresponds to the lender, except for the fault of the borrower or an agreement to satisfy all damage.

### **Article 1733.- Non-transferability of the loan**

The obligations and rights resulting from the loan are not transferred to the heirs of the borrower, unless the asset has been given as a loan for a purpose that cannot be suspended.

#### **Article 1734.- Prohibition to assign use of the property**

The borrower may not assign the use of the property to a third party without written authorization from the lender, under penalty of nullity.

#### **Article 1735.- Obligations of the borrower**

The obligations of the borrower are:

1. Deliver the property within the agreed period
2. Communicate in a timely manner to the borrower if the property suffers from a known defect.
3. Failure to request the return of the property before the stipulated term and, in the absence of an agreement, before having served the use for which it was given as a loan, except in the case provided for in article 1736.
4. Pay the extraordinary expenses that the borrower would have made for the conservation of the property.

#### **Article 1736.- Early return of the property**

If the lender needs the property with unforeseen urgency or accredits that there is a danger of deterioration or loss if it continues to be in the hands of the borrower, he can request its return before the term expires or having served for the use.

#### **Article 1737.- Free loan of indeterminate duration**

When the duration of the contract has not been determined, the borrower is obliged to return the property when the lender requests it.

#### **Article 1738.- Obligations of the borrower**

The obligations of the borrower are:

1. Custody and conserve the property with the greatest diligence and care, being responsible for the loss or deterioration that does not come from its nature or ordinary use.
2. Use the good for the use specified in the contract or, failing that, according to the nature of the same and custom, being responsible for the deterioration or loss resulting from the abuse.
3. Allow the lender to inspect the property to establish its state of use and conservation.
4. Pay the essential ordinary expenses required by the conservation and use of the property.

5. Return the good within the stipulated period or, failing that, after the use for which it was given as a loan.

### **Article 1739.- Exemption from liability for ordinary use**

The borrower is not liable if the asset deteriorates or is modified due to the use for which it has been delivered.

### **Article 1740.- Expenses of reception and restitution of the good**

The expenses of reception and restitution of the property are borne by the borrower.

### **Article 1741.- Responsibility for different use of the good**

The borrower who uses the good for a different use or for a longer term than the agreed period is responsible for the loss or deterioration that occurs for reasons that are not attributable to him, unless he proves that these events would have occurred even when he had not used it differently or I would have restored it in due course.

### **Article 1742.- Responsibility for the loss of property**

The borrower must pay the value of the asset given in bailment if he perishes for a cause that is not attributable to him, when he could have avoided it by replacing it with one of his own.

### **Article 1743.- Responsibility for the deterioration and loss of valued property**

If the asset was appraised at the time the contract was concluded, its loss or deterioration is the responsibility of the borrower, even if it had occurred for reasons that are not attributable to it.

### **Article 1744.- Place of return of the good**

The borrower must return the asset given in bailment to the borrower or whoever has the right to receive it, in the place where it was received.

### **Article 1745.- Suspension of the return of the property**

The borrower cannot suspend the restitution on the grounds that the borrower has no right to the property, unless it has been lost, stolen or stolen or that the borrower is designated as depositary by court order.

### **Article 1746.- Consignment of the good**

If the borrower supposes that a lost, stolen or stolen property has been loaned to him, he must consign it immediately and under responsibility, with a summons from the borrower and the presumed owner, if known.

#### **Article 1747.- Suspension of return**

The borrower is obliged to suspend the restitution of the property if it is intended to use it for the commission of a criminal offense.

In this case, you must consign it immediately and under responsibility, with the citation of the borrower.

#### **Article 1748.- Right of retention**

The borrower has the right to retain the property, only when the extraordinary expenses referred to in article 1735, subsection 4, have not been paid.

#### **Article 1749.-Alienation of the asset by heirs of the borrower**

If the borrower's heirs had alienated the property without having knowledge of the loan, the lender may demand that they pay its value or assign the rights that correspond to him by virtue of the alienation, unless he has made use of the reivindicacion action.

If the heirs had known of the loan, they will also compensate the damages and losses.

#### **Article 1750.- Payment for impossibility of restoring the property**

When it is impossible to return the property, the borrower will pay, at the choice of the lender, another of the same kind and quality, or its value, according to the circumstances and place in which it should have been returned.

#### **Article 1751.- Finding of the good given in loan**

Once the good given in bailment has been paid for having been lost, if the borrower finds it later, he will not be able to oblige the borrower to receive it, but he will have the power to recover it, returning to the borrower what he received.

If the finding is made by the lender, he can retain it by returning the good or value he received or, failing that, by delivering the good found to the borrower.

If the property was found by a third party, the lender is empowered to claim it and, once recovered, will return to the borrower what he would have paid.

### **Article 1752.- Joint and several liability in plurality of borrowers**

If the property has been loaned to two or more people to use it at the same time, all are jointly and severally liable.

### **Article 1753.- Expiration of the action due to deterioration or modification of the asset**

The action of the lender to claim for the deterioration or modification of the property, when the cause is attributable to the borrower, expires six months after having recovered it.

### **Article 1754.- Expiration of the action for the reimbursement of extraordinary expenses**

The action of the borrower for the reimbursement of the extraordinary expenses referred to in article 1735, subsection 4, expires six months after the asset was returned.

## **Title IX : Provision of services**

### **Chapter one: General provisions**

#### **Article 1755.- Definition**

For the provision of services, it is agreed that these or their result be provided by the provider to the client.

#### **Article 1756.- Modalities of the provision of services**

The modalities of the provision of nominated services are:

1. The location of services.
2. The construction contract.
3. The mandate.
4. The deposit.
5. Kidnapping.

#### **Article 1757.- Unnamed contracts for the provision of services**

They are also modalities of the provision of services, and the provisions contained in this chapter are applicable to them, the unnamed contracts of I give so that you do and I do so that you give.

### **Article 1758.- Provision of services between absentees**

Acceptance between absentees is presumed when the services that are the subject of the contract constitute the habitual profession of the recipient of the offer, or the exercise of their official capacity, or when the services are publicly announced, unless the recipient makes his excuse known without delay.

### **Article 1759.- Opportunity to pay.**

When the service is remunerated, the remuneration will be paid after the service has been rendered or its result accepted, except when by agreement, by the nature of the contract, or by custom, it must be paid in advance or periodically.

### **Article 1760.- Limits of the benefit**

The provider of the services cannot exceed the limits of the order.

However, you can deviate from the instructions received if you fill the order in a more advantageous way than that expressed in the contract or when it is reasonable to assume that the client would approve your conduct if he knew of certain circumstances that it was not possible to communicate to him in a timely manner.

### **Article 1761.- Tacit approval of excesses of the provision**

Once the client is informed of the deviation of the instructions by the service provider, the silence of the latter for a time greater than the time he had to pronounce, according to the uses or, failing that, according to the nature of the matter, the approval of the order matters.

### **Article 1762.- Responsibility for the provision of professional or technical services**

If the provision of services involves the solution of professional issues or technical problems of particular difficulty, the service provider is not liable for damages, but only in the event of intent or inexcusable fault.

### **Article 1763.- Death or incapacity of the service provider**

The contract for the provision of services is terminated due to the death or disability of the provider, unless the consideration of his person had not been the determining reason for the contract.

## **Chapter two: Location of services**

### **Article 1764.- Definition**

For the location of services, the landlord is obliged, without being subordinate to the principal, to provide his services for a certain time or for a specific job, in exchange for a fee.

### **Article 1765.- Object**

All kinds of material and intellectual services may be the subject of the contract.

### **Article 1766.- Personal nature of the service**

The landlord must personally provide the service, but may use, under his own direction and responsibility, assistants and substitutes if the collaboration of others is permitted by the contract or by usage and is not incompatible with the nature of the provision.

### **Article 1767.- Determination of remuneration**

If the landlord's remuneration has not been established and cannot be determined according to professional rates or uses, it will be set in relation to the quality, entity and other circumstances of the services provided.

### **Article 1768.- Maximum term for the rental of services**

The maximum term of this contract is six years in the case of professional services and three years in the case of other types of services. If a longer term is agreed, the maximum limit indicated can only be invoked by the landlord.

### **Article 1769.- Early conclusion**

The landlord may terminate the provision of services for a just reason, before the expiration of the stipulated period, provided that it does not cause damage to the principal.

You have the right to reimbursement for expenses incurred and to compensation for services rendered.

### **Article 1770.- Applicable norms when the landlord provides materials**

The provisions of articles 1764 to 1769 are applicable when the landlord provides the materials, provided that they have not been predominantly taken into consideration.

Otherwise, the provisions on the sale apply.

## Chapter Three: Work Contract

### Article 1771.- Definition

By the work contract, the contractor is obliged to carry out a specific work and the principal to pay him a fee.

### Article 1772.- Work subcontract

The contractor may not fully subcontract the execution of the work, except with the written authorization of the principal.

The responsibility towards the principal is jointly and severally between the contractor and the subcontractor, regarding the matter of the subcontract.

### Article 1773.- Obligation of the principal.

The materials necessary for the execution of the work must be provided by the client, except custom or different agreement.

### Article 1774.- Obligation of the contractor

The contractor is obliged:

1. To do the work in the manner and terms agreed in the contract or, failing that, in the one that is used.
2. To give immediate notice to the client of the defects of the floor or of the poor quality of the materials provided by it, if they are discovered before or in the course of the work and may compromise its regular execution.
3. To pay for the materials received, if these, due to the negligence or inexperience of the contractor, are unable to be used to carry out the work.

### Article 1775.- Prohibition of introducing variations

The contractor may not introduce variations in the agreed characteristics of the work without the written approval of the principal.

### Article 1776.- Work by raised adjustment

The person obliged to carry out a work by fixed adjustment has the right to compensation for the variations agreed in writing with the client, provided that they mean more work or increase in the

cost of the work. The principal, in turn, is entitled to a compensatory adjustment in the event that said variations mean less work or a decrease in the cost of the work.

#### **Article 1777.- Inspection of the work**

The principal has the right to inspect, on his own account, the execution of the work. When in the course of it it is found that it is not executed in accordance with what was agreed and according to the rules of the art, the principal may set an adequate period for the contractor to comply with such rules. After the established period has elapsed, the principal may request the termination of the contract, without prejudice to the payment of compensation for damages.

In the case of a building or a property intended by its nature for a long duration, the inspector must be a qualified technician and have not participated in the preparation of the studies, plans and other documents necessary for the execution of the work.

#### **Article 1778.- Verification of the work**

Before receiving the work, the client has the right to verify it. If the client neglects to proceed with it without just cause or does not communicate its result within a short time, the work is considered accepted.

#### **Article 1779.- Tacit acceptance of the work**

The work is understood to have been accepted, if the client receives it without reservation, even if it has not been verified.

#### **Article 1780.- Work to the satisfaction of the principal.**

When it is stipulated that the work must be done to the satisfaction of the client, in the absence of conformity, acceptance is understood to be reserved to the corresponding expertise. Any other agreement is void.

If the person who must accept the work is a third party, the provisions of articles 1407 and 1408 will be followed.

#### **Article 1781.- Work by piece or measure**

Whoever is obliged to do a work by piece or measure has the right to verification in parts and, in such case, to be paid in proportion to the work performed.

The payment presumes the acceptance of the part of the work carried out.

It does not produce for this purpose the disbursement of simple amounts on account or the payment of valuations for the advance of the agreed work.

#### **Article 1782.- Responsibility for diversity and defects of the work**

The contractor is obliged to respond for the diversities and vices of the work.

The reception of the work, without reservation of the client, discharge of responsibility to the contractor for the diversities and the external vices of this.

#### **Article 1783.- Actions of the principal for defects in the work**

The principal may request, at his option, that the diversities or defects of the work be eliminated at the contractor's expense, or that the remuneration be reduced proportionally, without prejudice to compensation for the damage.

If the diversities or vices are such that they render the work useless for the agreed purpose, the principal may request the termination of the contract and compensation for damages.

The client must notify the contractor of the diversities or vices within sixty days of receipt of the work. This period is expiration. The action against the contractor prescribes one year after the construction of the work.

#### **Article 1784.- Contractor's responsibility for destruction, defects or ruin.**

If in the course of five years from its acceptance the work is totally or partially destroyed, or presents an obvious danger of ruin or serious defects due to construction defects, the contractor is liable to the principal or his heirs, provided that notify you in writing of a certain date within six months of discovery. Any other agreement is void.

The contractor is also responsible, in the cases indicated in the previous paragraph, for the poor quality of the materials or for the defect of the floor, if it had supplied the first or prepared the studies, plans and other documents necessary for the execution of the work.

The term to file the action is one year, counted from the day following the notice referred to in the first paragraph.

#### **Article 1785.- Assumption of absence of contractor responsibility**

There is no responsibility of the contractor in the cases referred to in article 1784, if he proves that the work was executed according to the rules of the art and in strict accordance with the instructions

of the professionals who prepared the studies, plans and other necessary documents. for the realization of the work, when they are provided by the client.

#### **Article 1786.- Faculty of the principal.**

The principal may separate from the contract, even when the execution of the work has begun, indemnifying the contractor for the work carried out, the expenses incurred, the materials prepared and what he could have earned if the work had been completed.

#### **Article 1787.- Obligation to pay upon the death of the contractor**

In case the contract is terminated due to the death of the contractor, the principal is obliged to pay the heirs up to the limit in which the works carried out are useful, in proportion to the remuneration agreed for the entire work, the expenses incurred and the materials prepared .

#### **Article 1788.- Loss of the work through no fault of the parties**

If the work is lost through no fault of the parties, the contract is fully terminated.

If the materials are supplied by the principal, the contractor is obliged to return those that have not been lost and the principal is not obliged to pay the remuneration for the part of the work not executed.

In the case of a lump sum or unit of measure contract, the contractor must return the proportional remuneration corresponding to the part of the work not executed, but is not obliged to replace or restore it. For its part, the principal is not obliged to pay the proportional remuneration for the part of the work not executed.

#### **Article 1789.- Substantial deterioration of the work**

If the work deteriorates substantially for reasons not attributable to the parties, article 1788 applies.

### **Chapter Four: Mandate**

#### **Subchapter I: General provisions**

#### **Article 1790.- Definition**

By mandate, the agent is obliged to carry out one or more legal acts, on behalf of and in the interest of the principal.

#### **Article 1791.- Presumption of onerosity**

The mandate is presumed onerous.

If the amount of the remuneration has not been agreed, it is fixed on the basis of the fees of the office or profession of the agent; in the absence of these, by uses; and, in the absence of both, by the judge.

#### **Article 1792.- Extension of the mandate**

The mandate includes not only the acts for which it has been conferred, but also those that are necessary for its fulfillment.

The general mandate does not include acts that exceed ordinary administration, if they are not expressly indicated.

### Subchapter II: Obligations of the agent

#### **Article 1793.- Obligations of the agent.**

The agent is obliged:

1. To practice personally, unless otherwise provided, the acts included in the mandate and subject to the instructions of the principal.
2. To notify the principal of the execution of the mandate without delay.
3. To render accounts of their performance at the established opportunity or when required by the client.

#### **Article 1794.- Responsibility of the agent.**

If the agent uses for his benefit or uses for another purpose the money or goods that he has to use for the fulfillment of the mandate or that he must deliver to the principal, he is obliged to return them and to pay compensation for damages.

#### **Article 1795.- Solidarity in joint mandate**

If there are several agents and they are obliged to act jointly, their responsibility is joint and several.

### Subchapter III: Obligations of the principal

#### **Article 1796.- Obligations of the principal**

The principal is bound by the agent:

1. To provide the necessary means for the execution of the mandate and for the fulfillment of the obligations that it has contracted for this purpose, unless otherwise agreed.
2. To pay him the remuneration that corresponds to him and to make provision for it according to the uses.
3. To reimburse the expenses incurred for the performance of the mandate, with legal interest from the day they were incurred.
4. To compensate you for the damages suffered as a result of the mandate.

### **Article 1797.- Default of the principal**

The agent may refrain from executing the mandate as long as the principal is in default before him in the fulfillment of his obligations.

### **Article 1798.- Preference of the agent.**

The president has the right to satisfy the credits that correspond to him according to article 1796 with the assets that have been the subject of the business that he has concluded, with preference over his principal and his creditors.

### **Article 1799.- Right of retention**

The agent may also retain the assets that he obtains for the principal in compliance with the mandate, as long as he does not comply with the obligations that correspond to him according to paragraphs 3 and 4 of article 1796.

### **Article 1800.- Joint and several liability in the collective mandate**

If there are several constituents, their obligations to the common agent are joint and several.

## Subchapter IV: Termination of the mandate

### **Article 1801.- Causes of extinction**

The mandate expires for:

1. Total execution of the mandate.
2. Expiration of the contract term.
3. Death, interdiction or disqualification of the principal or agent.

### **Article 1802.- Validity of acts subsequent to extinction**

The acts that the agent performs before knowing the termination of the mandate are valid.

### **Article 1803.- Mandate in the interest of the agent or third party**

The death, interdiction or disqualification of the principal does not extinguish the mandate when it has also been held in the interest of the agent or a third party.

### **Article 1804.- Extinction of the mandate for special causes**

When the mandate expires due to the death, interdiction or disqualification of the agent, his heirs or whoever represents or assists him, they must immediately inform the principal and take the measures required by the circumstances in the meantime.

### **Article 1805.- Extinction of the joint mandate**

When there are several agents with the obligation to act jointly, the mandate is extinguished for all even when the cause of extinction concerns only one of the agents, unless otherwise agreed.

#### Subchapter V: Mandate with representation

### **Article 1806.- Rules applicable to mandate with representation**

If the agent is a representative because he has received power to act on behalf of the principal, the rules of title III of Book II are also applicable to the mandate.

In this case, the agent must act on behalf of the principal.

### **Article 1807.- Presumption of representation**

The mandate is presumed to be with representation.

### **Article 1808.- Extinction by revocation or resignation of power**

In the mandate with representation, the revocation and resignation of power imply the termination of the mandate.

#### Subchapter VI: Mandate without representation

### **Article 1809.- Definition**

The agent acting in his own name acquires the rights and assumes the obligations derived from the acts that he performs in the interest and on behalf of the principal, even when the third parties have had knowledge of the mandate.

### **Article 1810.- Transfer of goods acquired by the agent.**

The agent is automatically obliged by virtue of the mandate to transfer the assets acquired in execution of the contract to the principal, while the rights acquired by third parties in good faith remain safe.

### **Article 1811.- Obligations assumed by the principal**

The principal is obliged to assume the obligations contracted by the agent in execution of the mandate.

### **Article 1812.- Liability of agent for breach of third party**

The agent is not responsible to the principal for the lack of fulfillment of the obligations assumed by the persons with whom he has contracted, unless at the time of the conclusion of the contract he knew or should be known of his insolvency, unless otherwise agreed.

### **Article 1813.- Inaffection of assets due to debts of the agent.**

The creditors of the agent may not assert their rights over the assets that he / she had acquired in execution of the mandate, provided that there is a document of a certain date prior to the requirement made by the creditors in order to affect said assets with embargo or other measures.

## **Chapter Five: Deposit**

### **Subchapter I: Voluntary deposit**

#### **Article 1814.- Definition**

By voluntary deposit, the depositary is obliged to receive an asset to safeguard it and return it when requested by the depositor.

#### **Article 1815.- Deposit made to an incapable person**

There is no civil action for the deposit made to an incapable person, but only to recover what exists and to demand the value of what is consumed for the benefit of the depositary.

#### **Article 1816.- Proof of the deposit**

The existence and content of the deposit are governed by the provisions of the first paragraph of article 1605.

### **Article 1817.- Transfer of deposit**

The deposit cannot be assigned without written authorization from the depositor, under penalty of nullity.

### **Article 1818.- Presumption of gratuity**

The deposit is presumed free, unless, by a different agreement or by professional quality, by the activity of the depositary or other circumstances, it is deduced that it is remunerated.

If the parties do not determine the amount of the remuneration, it is regulated according to the customs of the place where the contract is concluded.

### **Article 1819.- Duty of custody and conservation of the property**

The depositary must place in the custody and conservation of the property, under responsibility, the ordinary diligence required by the nature of the obligation and that corresponds to the circumstances of the people, the time and the place.

### **Article 1820.- Prohibition of using the deposited asset**

The depositary may not use the property for his own benefit or that of a third party, unless expressly authorized by the depositor or the judge. If you violate this prohibition, you are liable for the deterioration, loss or destruction of the property, including fortuitous events or force majeure.

### **Article 1821.- Release of responsibility of the depositary**

There is no place for the liability provided for in article 1820, if the depositary proves that the deterioration, loss or destruction would have occurred, even if he had not made use of the property.

### **Article 1822.- Variation of the custody mode**

When there are urgent circumstances, the depositary may exercise custody in a manner other than that agreed upon, giving notice of this to the depositor as soon as possible.

### **Article 1823.- Deterioration, loss or destruction of the property without fault**

The damage, loss or destruction of the property arising without fault is not borne by the depositary, except in the case provided by article 1824.

### **Article 1824.- Deterioration, loss or destruction due to apparent fault or vice**

The depositary will be liable for the deterioration, loss or destruction of the property when they originate through its fault, or when they arise from the nature or apparent vice of the same, if it did not do what is necessary to avoid or remedy them, also giving notice to the depositor as soon as they began manifest.

#### **Article 1825.- Reserved deposit**

The obligation of custody and conservation of the property includes that of respecting the seals and locks of the package or cover of the container, unless authorized by the depositor. The guilt of the depositary is presumed in case of fracture or forcing.

#### **Article 1826.- Responsibility for violation of reserved deposit**

If the seals have been broken or the locks have been forced due to the fault of the depositary, the depositor's declaration will be made as to the number and quality of the deposited goods, except for different evidence filed by the depositary.

#### **Article 1827.- Secret deposit**

The depositary must not violate the secrecy of a deposit, nor may it be compelled to reveal it, except for a court order.

#### **Article 1828.- Deposit of securities.**

The depositories of securities, or documents that accrue interest, are obliged to collect them at the time of their expiration, as well as to carry out the acts that are necessary for said documents to preserve the value and rights that correspond to them.

#### **Article 1829.- Irregular deposit**

When the depositor allows the depositary to use the asset, the contract becomes a loan or mutual, depending on the circumstances.

#### **Article 1830.- Return of the deposited good**

The depositary must return the asset as soon as the depositor requests it, even if there is an agreed term, unless the contract has been entered into for the benefit or interest of the depositary or a third party.

#### **Article 1831.- Deposit in the interest of a third party**

If the property is also deposited in the interest of a third party and the latter communicates its adherence to the contracting parties, the depositary cannot be released by restoring it without the consent of the third party.

#### **Article 1832.- Deposit for an undetermined term**

If no term has been set in the contract, the depositary may make the restitution of the asset at any time, provided that the depositor is notified with prudent anticipation to receive it.

#### **Article 1833.- Early return of the property**

The depositary who has a just reason for not keeping the property may, before the specified period, return it to the depositor, and if he refuses to receive it, he must consign it.

#### **Article 1834.- Person to whom the property must be restored**

The depositary must not return the property but to the person who entrusted it or to the person in whose name the deposit was made or to the person for whom it was intended at the time the contract was signed.

#### **Article 1835.- Supervening incapacity of the depositary.**

If the depositary becomes incapable, the person who assumes the administration of his assets will proceed immediately to the restitution of the asset or will consign it if the depositor does not want to receive it.

#### **Article 1836.- Consignment of the property of criminal origin**

The restitution should not be made to the depositor of the asset if the depositary is aware of its criminal origin, in which case it must be consigned immediately, with a summons from the depositor and under responsibility.

#### **Article 1837.- State of the property upon return**

The depositary must return the same good received, in the state in which it is at the time of its return, with its accessories, fruits and income.

#### **Article 1838.- Deposit of divisible good**

The depositary will return to each depositor part of the property, provided that it is divisible and if, when the contract is concluded, what corresponds to each has been indicated.

### **Article 1839.- Return to plurality of depositors**

If there are several depositors and it has not been established to whom the restitution will be made, in the absence of an agreement it must be carried out according to the modalities established by the judge.

The same rule applies when several heirs succeed a single depositor.

### **Article 1840.- Return to a plurality of depositaries**

If there are several depositaries, the depositor will request restitution from the person who has the property, giving immediate notice to the others.

### **Article 1841.- Exoneration of restoring the property**

The depositary who loses possession of the property as a result of an event that is not attributable to him, is released from restoring it, but will immediately notify the depositor, under responsibility. The depositor can demand what the depositary has recovered and its rights are substituted.

### **Article 1842.- Obligation to return the substitute good**

The depositary who loses the good without fault and receives another in its place, is obliged to deliver it to the depositor.

### **Article 1843.- Liability of heirs for alienation of property**

The heir of the depositary who alienates the asset, ignoring that it was in deposit, must only return what he had received or assign his rights against the acquirer, in the event that the value had not been delivered.

In the event that the heir knows that the property is in deposit, he is subject to the provisions of the preceding paragraph and is also liable for damages.

### **Article 1844.- Return of the property due to the death of the depositor.**

In the event of the death of the depositor, the property must be returned to his heir, legatee or executor.

### **Article 1845.- Return of the asset to the represented.**

The deposit made by the administrator will be returned to the person he represented when the contract was concluded, if his administration or management had ended.

#### **Article 1846.- Return of the property to the representative of the incapable**

In the deposit made by an incapacitated person, the property cannot be returned except to the person who legally represents him, even when the incapacity occurred after the contract.

#### **Article 1847.- Refusal to return the property**

Except for the cases provided for in articles 1836 and 1852, the depositary cannot refuse to return the property, and if he does, he is liable for damages.

The same rules will apply to you if you deny the deposit and it is proven in court.

#### **Article 1848.- Place of return of the good**

The return of the deposit is made in the place where it was in custody.

#### **Article 1849.- Delivery and return costs**

The delivery and return costs are paid by the depositor.

#### **Article 1850.- Property of the depositary.**

The depositary is released from any obligation if it turns out that the property belongs to him and that the depositor has no right over it.

#### **Article 1851.- Reimbursement of expenses**

The depositor is obliged to reimburse the depositary for the expenses incurred in the custody and conservation of the deposited asset and to pay the corresponding compensation.

#### **Article 1852.- Right of retention**

The depositary can only retain the property until it is paid what is owed by reason of the contract.

#### **Article 1853.- Deposits regulated by special laws**

Deposits in banks, cooperatives, finance companies, general deposit warehouses, mutuals and other similar institutions are governed by the special laws that regulate them.

## Subchapter II: Deposit required

### **Article 1854.- Definition**

The necessary deposit is the one made in compliance with a legal obligation or under the pressure of an unforeseen event or situation.

### **Article 1855.- Obligation to receive the necessary deposit**

Everyone is obliged to receive the necessary deposit, unless they have a physical disability or other justification.

### **Article 1856.- Rules applicable to the necessary deposit**

The required deposit is additionally governed by the rules of voluntary deposit.

## **Chapter Six: Kidnapping**

### **Article 1857.- Definition**

Due to kidnapping, two or more depositors entrust the custodian and conservation of an asset with respect to which a controversy has arisen.

### **Article 1858.- Formality of the kidnapping**

The contract must be in writing, under penalty of nullity.

### **Article 1859.- Administration of the property**

When the nature of the property requires it, the depositary has the obligation to administer it.

### **Article 1860.- Conclusion of contracts entered into by the depositary - administrator**

Any contract entered into by the depositary in accordance with the provisions of article 1859, is concluded by right if, before the expiration of the term, the controversy ends.

### **Article 1861.- Disposal of the kidnapped asset**

In the event of imminent danger of loss or serious deterioration of the asset, the depositary may dispose of it with the authorization of the judge and knowledge of the depositors.

### **Article 1862.- Incapacity or death of the depositary**

If the depositary becomes incapacitated or dies, the depositors will designate a replacement. In case of discrepancy, the appointment is made by the judge.

#### **Article 1863.- Solidarity of depositors and right of retention**

The depositors are jointly and severally liable for the payment of the agreed remuneration, expenses, costs and any other expenditure arising from the kidnapping. The depositary may retain the asset as long as its credit has not been satisfied.

#### **Article 1864.- Claim of the property by dispossession**

The depositary who is dispossessed of the property can claim it from whoever has it in his power, including any of the depositors who have taken it without the consent of the others or without a mandate from the judge.

#### **Article 1865.- Release of the depositary**

The depositary can be released only before the termination of the controversy with the consent of all the depositors or for just cause at the discretion of the judge.

#### **Article 1866.- Delivery of the property**

The property must be delivered, according to the result of the controversy, to whom it corresponds.

#### **Article 1867.- Rules applicable to kidnapping.**

The rules of voluntary deposit apply to kidnapping, insofar as they are applicable.

### **Title X: Bond**

#### **Article 1868.- Definition**

For the surety, the guarantor is obliged to the creditor to fulfill a certain benefit, in guarantee of an obligation of others, if this is not fulfilled by the debtor.

The surety can be constituted not only in favor of the debtor but also of another guarantor.

#### **Article 1869.- Bond without intervention of the debtor**

It can be secured without order and even without notice or against the will of the debtor.

### **Article 1870.- Bond of legal persons**

Representatives of legal persons may grant a bond on behalf of their represented, provided they have sufficient power.

### **Article 1871.- Formality of the bond.**

The bond must be in writing, under penalty of nullity.

### **Article 1872.- Bond of future obligations**

A surety can be provided as guarantee of determined or determinable future obligations whose amount is not yet known, but cannot be claimed against the guarantor until the debt is liquid.

The bond for a conditional or term obligation is equally valid.

### **Article 1873.- Extension of the guarantor's obligation**

The guarantor is only bound by what he has expressly committed to, not being able to exceed what the debtor owes. However, it is valid that the guarantor is bound in a more efficient way than the debtor.

### **Article 1874.- Excess in the obligation of the guarantor**

If the excess referred to in article 1873 occurs, the bond is valid within the limits of the main obligation.

### **Article 1875.- Ancillary nature of the bond**

The bond cannot exist without a valid obligation, unless it has been established to ensure a voidable obligation due to a lack of personal capacity.

### **Article 1876.- Requirements of the guarantor and replacement of the guarantee**

The person obliged to give a guarantee must present a person capable of binding himself, who is the owner of sufficient assets to cover the obligation and which are realizable within the territory of the Republic. The guarantor, in this case, is subject to the jurisdiction of the judge of the place where the obligation of the debtor must be fulfilled.

The obligee may substitute the guarantee for a pledge, mortgage or antichresis, with the acceptance of the creditor or the approval of the judge, unless otherwise provided by law.

### **Article 1877.- Insolvency of the guarantor**

When the guarantor has become insolvent, the debtor must replace him with another that meets the requirements established in article 1876.

If the debtor cannot provide another guarantor or does not offer another suitable guarantee, the creditor has the right to demand immediate fulfillment of the obligation.

### **Article 1878.- Extension of the bond**

The bond, if not limited, extends to all the accessories of the main obligation, as well as the costs of the lawsuit against the guarantor, which would have accrued after being required for payment.

### **Article 1879.- Excussion benefit**

The guarantor cannot be compelled to pay the creditor without first excising the debtor's assets.

### **Article 1880.- Opposition of benefit of excusión**

In order for the guarantor to take advantage of the benefit of the excuse, he must oppose it to the creditor after the latter requires it for payment and prove the existence of assets of the debtor that are realizable within the territory of the Republic, which are sufficient to cover the amount of the obligation..

### **Article 1881.- Responsibility of the negligent creditor in the excuse**

The creditor negligent in the removal of the debtor's assets is liable as far as they can, for the insolvency resulting from his carelessness.

### **Article 1882.- Assets not considered in the excursion**

Assets seized, disputed, mortgaged, given in antichresis or pledged, for preferential debts, will not be taken into account for the excursion, in the part that is necessary for its fulfillment.

If the debtor's assets do not produce more than a partial payment of the debt, the creditor can take action against the guarantor for the balance, including interest and expenses.

### **Article 1883.- Inadmissibility of the benefit of excuse**

The excursion does not take place:

1. When the guarantor has expressly waived it.
2. When it has jointly and severally obligated itself to the debtor.
3. In case of bankruptcy of the debtor.

#### **Article 1884.- Risks for the negligent creditor.**

The creditor negligent in the removal of the assets indicated by the guarantor assumes the risk of loss or non-prosecution of these assets for the purpose of the removal.

#### **Article 1885.- Exceptions of the guarantor against the creditor**

The guarantor can oppose against the creditor all the exceptions that correspond to the debtor, even if he has renounced them, except those that are inherent to his person.

#### **Article 1886.- Joint and several liability of guarantors**

Since there are several guarantors of the same debtor and for the same debt and all of them have been obliged to equal benefits, each one responds for the entirety of their obligation, unless the benefit of the division has been agreed.

#### **Article 1887.- Division benefit**

If the benefit of the division has been stipulated, any guarantor who is sued for the payment of the debt can demand that the creditor reduce the action to the part that corresponds to him.

If one of the guarantors is insolvent at the time that another has asserted the benefit of the division, he is only liable for that insolvency, in proportion to his quota.

#### **Article 1888.- Benefit of excusion of the sub-guarantor**

The sub-guarantor enjoys the benefit of excusion, both with respect to the guarantor and the debtor.

#### **Article 1889.- Subrogation of the guarantor.**

The guarantor who pays the debt is subrogated in the rights that the creditor has against the debtor.

If you have settled with the creditor, you cannot ask the debtor for more than what you actually paid.

#### **Article 1890.- Compensation to the guarantor.**

The compensation that must be paid to the guarantor comprises:

1. The total amount paid by the guarantor.
2. The legal interest since the payment was made known to the debtor, even if it did not produce it for the creditor.
3. The expenses incurred by the guarantor, after informing the debtor that he has been required for payment.
4. Damages, when applicable

### **Article 1891.- Subrogation of the guarantor of joint and several co-debtors**

If there are several debtors jointly and severally obligated, the guarantor who has guaranteed for all of them can be subrogated against any of them for the full amount paid.

### **Article 1892.- Inadmissibility of the action against the principal debtor**

The guarantor has no action against the debtor if, by failing to notify him of the payment made, he has also canceled the debt.

The foregoing is without prejudice to the right of repetition of the guarantor against the creditor.

### **Article 1893.- Repetition of the guarantor against guarantors.**

When several people give a guarantee to the same debtor for the same debt, the guarantor who has paid has action against the other guarantors for their respective part. If any of them is insolvent, the part of it is distributed proportionally among the others.

### **Article 1894.- Exceptions of the debtor against guarantor**

If the guarantor pays without notifying the debtor, the debtor may assert against him all the exceptions that he could have made against the creditor.

### **Article 1895.- Exceptions between cofiators**

The cofiators can oppose the one who paid the same exceptions that would have corresponded to the debtor against the creditor and that are not inherent to the debtor.

### **Article 1896.- Advance payment by guarantor**

The guarantor who paid the principal obligation in advance cannot be subrogated against the debtor until after the term of the obligation has expired.

### **Article 1897.-Actions of the guarantor before payment**

The guarantor can take action against the debtor, before having paid, so that he can relieve him or, failing that, provide sufficient guarantee to ensure the satisfaction of his possible subrogation rights in the following cases:

1. When the debtor is summoned for payment.
2. When the debtor becomes insolvent or performs acts tending to decrease his patrimony.
3. When the debtor is obliged to release him from the bond within a specified period and it has expired.
4. When the debt has become enforceable.

#### **Article 1898.- Bond for a specified term.**

The guarantor who is bound by a specified period, is free of responsibility if the creditor does not require notarially or judicially the fulfillment of the obligation within the fifteen days following the expiration of the period, or abandon the action initiated.

#### **Article 1899.- Bond without a specified term**

If the surety has been granted without a specified term, the guarantor can ask the creditor that when the debt is enforceable, make his right effective and sue the debtor. If the creditor does not exercise that right within thirty days after it is required or if he abandons the procedure, the guarantor is released from his obligation.

#### **Article 1900.- Release of the guarantor by dation in payment**

That freed the guarantor if the creditor accepts from the debtor an asset in payment of the debt, although later he loses it by eviction.

#### **Article 1901.- Extinction of the bond by extension to the debtor**

The extension granted to the debtor by the creditor without the consent of the guarantor extinguishes the guarantee, unless the latter has accepted it in advance.

#### **Article 1902.- Release of the guarantor due to impossibility of subrogation**

The guarantor is released from his obligation provided that due to some fact of the creditor he cannot be subrogated.

#### **Article 1903.- Consolidation between debtor and guarantor**

The consolidation of the debtor with the guarantor does not extinguish the obligation of the sub-guarantor.

### **Article 1904.- Documents that do not constitute a bond**

The letters of recommendation or other documents in which the probity or solvency of someone is assured or certified do not constitute a guarantee.

### **Article 1905.- Rules applicable to legal surety**

Articles 1868 to 1904 govern, insofar as they are applicable, the provision of the guarantee in cases where it is necessary by provision of the law.

### **Article 1906 to Article 1922.- Repealed**

## **Title XII: Life annuity**

### **Article 1923.- Definition**

For the life annuity, the delivery of a sum of money or other fungible assets is agreed to be paid in the stipulated periods.

### **Article 1924.- Classes of life annuity**

The life annuity can be constituted onerous or free of charge.

### **Article 1925.- Formality in life annuity**

The life annuity is constituted by public deed, under penalty of nullity.

### **Article 1926.- Formality in life annuity**

For the duration of the life annuity, the life of one or more persons must be indicated.

The life in which the rent ends will be determined in the contract, when it has been set at the head of several people.

### **Article 1927.- Grounds for annulment of the Life Income**

The life annuity whose duration was set in the head of a person who had died on the date of the public deed is null.

The life annuity constituted in the head of a person suffering from illness is also null and void, if he died as a direct effect of it within thirty days following the date of the public deed.

**Article 1928.- Death of a creditor for rent in favor of a third party**

When the creditor of an income constituted in the head of a third party dies before the latter, the income passes to his heirs until the death of the third party.

**Article 1929.- Transfer**

When the debtor of the rent dies before the third party in whose head its duration has been established, the obligation is transferred to the heirs of the former.

**Article 1930.- Readjustment of life annuity**

The clause that allows the readjustment of income in order to keep it at a constant value is valid.

**Article 1931.- Plurality of beneficiaries**

If when the income is constituted in favor of several people, the portion that each will enjoy is not expressed, it is understood that they benefit by equal quotas.

**Article 1932.- Nullity of the prohibition of transfer or seizure of income**

The agreement that prohibits the transfer of the income constituted for consideration or the seizure of it due to the debt of the person whom it favors is void.

**Article 1933.- Proof of survival**

The creditor cannot request the payment of the rent if it does not justify that the person in whose head it was established lives, unless the life of the creditor was the one indicated for the duration of the contract.

**Article 1934.- Lack of payment**

Failure to pay overdue pensions gives the creditor the right to claim only the payment of these and the assurance of future ones.

**Article 1935.- Termination of contract due to lack of guarantee**

The beneficiary for whom the life annuity was constituted for consideration may request the termination of the contract if the one who received the property and was obliged to pay the pension does not provide the stipulated guarantees.

**Article 1936.- Payment in advance.**

If it was agreed that the payment would be made in advance, the amount that has elapsed since the death of the person on whose life the rent was agreed is due.

If the creditor dies while the next benefit to be paid elapses, the rent will be paid in proportion to the days in which the subject in whose head it was agreed has lived.

If the benefit is paid in advance, the rent is due in full.

**Article 1937.- Extinction of the rent**

If the person whose life was designated for the payment of the rent dies, it is extinguished without there being an obligation to return the goods that served as consideration.

**Article 1938.- Penalty for death caused by the obligor**

The person obliged to pay the life annuity that intentionally causes the death of the person for whose life it was established, will return the goods received as consideration with their fruits, without being able to demand the return of the income that they had previously paid.

**Article 1939.- Effects of the suicide of the obligor**

If the rent is constituted in the head of the person who pays and he loses his life by suicide, the creditor has the right to have the goods returned with their fruits, deducting the amounts that he would have received for rent.

**Article 1940.- Right to increase in life annuity**

In the event that the income is established in favor and in the head of two or more people or only in favor of them, except between spouses, the death of any of them does not increase the part of those who survive, unless otherwise agreed.

**Article 1941.- Testamentary life income**

The life annuity established by testament is subject to the provisions of articles 1923 to 1940, insofar as they are applicable.

**Title XIII: Gambling and betting****Article 1942.- Definition**

Due to the allowed gambling and gambling, the loser is obliged to satisfy the agreed benefit, as a result of a future event or one that has occurred, but is unknown to the parties.

The judge may equally reduce the amount of the benefit when it is excessive in relation to the financial situation of the loser.

#### **Article 1943.- Unauthorized gambling and betting**

Unauthorized gambling and betting are those that are lucrative in nature, not prohibited by law, and do not grant action to claim for their result.

The one who voluntarily pays a debt emanating from the unauthorized gambling and betting, cannot request its repetition, unless there has been fraud in obtaining the profit or that the repeater is incapable.

#### **Article 1944.- Gambling and betting prohibited**

The prohibited gambling and gambling are those expressly indicated in the law. There is no action to claim for its result and, in the event of payment, it is null and void.

#### **Article 1945.- Nullity of legalization of gambling and betting debts**

The debts of the games and bets referred to in articles 1943 and 1944 cannot be the subject of novation, granting of guarantee for their payment, or any other legal act that conceals or involves their recognition. However, the nullity cannot be opposed to the third party in good faith.

These debts cannot be subject to the issuance of credit titles to the order of the winner and against the loser, except for the rights of the third party in good faith.

#### **Article 1946.- Inadmissibility of repetition of debt paid by a third party**

The third party who, without the consent of the loser, pays the debt of an unauthorized game or bet has no action to claim their refund. However, if the loser cancels the amount paid, it will be subject to the provision contained in the second paragraph of article 1943.

#### **Article 1947.- Gambling and massive betting**

Lottery contracts, forecasts on sports competitions, horse racing, cockfighting and other similar shows and contests are governed by the relevant legal or administrative regulations. In these cases, the reduction provided for in the second paragraph of Article 1942 is not applicable.

### **Article 1948.- Authorization for raffles and contests**

Raffles and other eventual public contests will be previously authorized by the corresponding authority.

### **Article 1949.- Expiration of the collection action**

The action to claim the debt derived from the games and bets allowed expires one year after the result has been made public, except for a different period indicated by special law.

## **Section Three : Business Management**

### **Article 1950.- Definition**

Who, lacking powers of representation and without being obliged, consciously assumes the management of the business or the administration of the assets of another who is ignorant, must perform it for the benefit of the latter.

### **Article 1951.- Solidarity in plurality of managers**

When the acts referred to in article 1950 were jointly assumed by two or more persons, their responsibility is joint and several.

### **Article 1952.- Obligations of the owner of the goods or businesses**

Even if there was no express ratification, the owner of goods or businesses that takes advantage of the advantages of the management, must fulfill the obligations that the manager has assumed for him in his own name and take responsibility for them; reimburse the expenses incurred by the manager with the legal interests generated from the day they were incurred; and to compensate the damages and losses suffered by the manager in the performance of the management.

The same obligation concerns him when the purpose of the management had been to avoid any imminent damage, even if no benefit would result from it.

### **Article 1953.- Responsibility of the manager**

The judge will assess the circumstances that led the manager to take charge of the management to set the extent of his responsibility, establish the amount of the expenses that must be reimbursed and set the compensation for the damages that he may have suffered in the performance of the management.

## SECTION FOUR: Enrichment Without Cause

### Article 1954.- Action for enrichment without cause

He who unduly enriches himself at the expense of another is obliged to indemnify him.

### Article 1955.- Inadmissibility of the action for enrichment without cause

The action referred to in article 1954 is not appropriate when the person who has suffered the damage can bring another action to obtain the respective compensation.

## Fifth Section : Unilateral Promise

### Article 1956.- Definition

By unilateral promise, the promisor is obliged, by his sole declaration of will, to fulfill a certain provision in favor of another person.

For the recipient to be a creditor of the benefit, their express or tacit consent is necessary, which operates retroactively at the time of the promise.

### Article 1957.- Limitation of unilateral promise

The unilateral promise only obliges the promised performance in the cases provided by law or by prior agreement between the interested parties.

### Article 1958.- Presumption of substantive relationship

The person in favor of whom a promise to pay or an acknowledgment of debt is made by unilateral declaration, is exempt from proving the fundamental relationship, whose existence is presumed.

### Article 1959.- Public promise

Anyone who unilaterally promises a benefit to someone who is in a certain situation or performs a certain act by means of a public announcement is bound by their promise from the moment it is made public.

### Article 1960.- Enforceability of the service offered

Anyone who is in the situation provided for in the promise or has executed the act contemplated in it, can demand the provision offered.

If several people are entitled to said benefit, it corresponds to the one who first gives notice to the promisor of being in the situation or having executed the act

### **Article 1961.- Plural promise**

If several people cooperate with the object for which the benefit was publicly promised, it will be divided equally among all, taking into account the part that each one had in the result.

### **Article 1962.- Public promise without a specified term**

The public promise without a determined validity period, either because the promisor has not set it or because it does not result from the nature or purpose of the promise, binds the promisor only for a period of one year from the moment it was made public..

### **Article 1963.- Revocation of public promise**

Any promise to the public can be revoked by the promisor at any time.

However, if it were with a determined validity period, only for a just reason may it be revoked by the promisor within the indicated period, in charge of compensating the damages that the revocation has caused to those who justifiably placed their trust in the validity of the promise..

### **Article 1964.- Invalidity of the revocation**

The revocation referred to in article 1963 is not valid in the following cases:

1. If it has not been made public in the same way as the promise or in an equivalent way.
2. If the situation provided for in the promise had already been verified or the act contemplated in it had been executed.

### **Article 1965.- Waiver of the right to revoke**

The right to revoke the promise can be waived early.

### **Article 1966.- Promise as contest prize**

The promise of provision as a prize in a contest is only valid when a deadline for the completion of the contest is set in the advertisement.

The decision regarding the admission of the contestants or the awarding of the prize to any of them, corresponds exclusively to the persons designated in the promise and, in the absence of this

designation, to the promisor, the decision being mandatory in both cases.

### **Article 1967.- Ownership of the awarded works**

The winning works in the contests referred to in article 1966 only belong to the promisor if this has been stipulated in the announcement of the promise.

### **Article 1968.- Applicable standards**

In addition, the provisions of articles 1361, second paragraph, 1363, 1402, 1409 and 1410 apply, insofar as they are compatible with the nature of the promise.

## **Sixth section : Tort liability**

### **Article 1969.- Compensation for delinquent and negligent damages**

Anyone who by fraud or fault causes damage to another is obliged to compensate him. The discharge for lack of intent or fault corresponds to its author.

### **Article 1970.- Liability for risk**

He who, through a risky or dangerous good, or by the exercise of a risky or dangerous activity, causes damage to another, is obliged to repair it.

### **Article 1971.- Non-existence of responsibility**

There is no liability in the following cases:

- 1.- In the regular exercise of a right.
- 2.- In legitimate defense of one's own person or another or in safeguarding one's own or someone else's good.
- 3.- In the loss, destruction or deterioration of an asset due to the removal of an imminent danger, produced in a state of necessity, which does not exceed what is necessary to ward off the danger and whenever there is a noticeable difference between the sacrificed asset and the well saved. The proof of the loss, destruction or deterioration of the property is the responsibility of the person freed from danger.

### **Article 1972.- Irresponsibility due to unforeseeable circumstances or force majeure**

In the cases of article 1970, the author is not obliged to make reparation when the damage was the result of a fortuitous event or force majeure, in fact, determining a third party or the recklessness of the person suffering the damage.

#### **Article 1973.- Judicial reduction of compensation**

If the recklessness has only concurred in the production of the damage, the compensation will be reduced by the judge, according to the circumstances.

#### **Article 1974.- Irresponsibility for a state of unconsciousness**

If a person is, without fault, in a state of loss of consciousness, he is not responsible for the damage he causes. If the loss of consciousness is caused by another person, the latter is responsible for the damage caused by that person.

#### **Article 1975.- Repealed**

#### **Article 1976.- Repealed**

#### **Article 1976-A.- Responsibility of the person with support**

The person who has support is responsible for his decisions, even those made with said support, having the right to repeat against him. The persons included in article 44 numeral 9 are not responsible for the decisions made with judicially designated support that have acted with intent or negligence .

#### **Article 1977.- Equitable compensation**

If the victim has not been able to obtain reparation in the previous case, the judge may, in view of the economic situation of the parties, consider a fair compensation to be paid by the direct author.

#### **Article 1978.- Responsibility for incitement and / or co-authorship**

The person who incites or helps to cause it is also responsible for the damage. The degree of responsibility will be determined by the judge according to the circumstances.

#### **Article 1979.- Responsibility for damage caused by animals**

The owner of an animal or the one who has it in his care must repair the damage that it causes, even if it has been lost or misplaced, unless he proves that the event took place due to the work or cause of a third party.

### **Article 1980.- Responsibility for falling building**

The owner of a building is responsible for the damage caused by its fall, if it has come from lack of conservation or construction.

### **Article 1981.- Liability for damage of the subordinate**

Anyone who has another under his command is liable for the damage caused by the latter, if that damage was done in the exercise of the position or in compliance with the respective service. The direct author and the indirect author are subject to joint and several liability.

### **Article 1982.- Responsibility for libelous complaint**

It corresponds to demand compensation for damages against who, knowing the falsity of the imputation or the absence of reasonable motive, denounces a person before the competent authority, attributing the commission of a punishable act.

### **Article 1983.- Joint and several liability**

If several are responsible for the damage, they will respond jointly and severally. However, the one who paid the entire compensation may repeat against the others, the judge being responsible for setting the proportion according to the severity of the fault of each of the participants. When it is not possible to discriminate the degree of responsibility of each one, the distribution will be made in equal parts.

### **Article 1984.- Non-pecuniary damage**

Non-material damage is compensated considering its magnitude and the damage caused to the victim or his family.

### **Article 1985.- Content of the compensation**

Compensation includes the consequences that derive from the action or omission generating the damage, including loss of earnings, damage to the person and non-pecuniary damage, and there must be an adequate causal relationship between the event and the damage produced. The amount of the compensation accrues legal interest from the date the damage occurred.

### **Article 1986.- Nullity of limits of liability**

Agreements that exclude or limit in advance liability for fraud or inexcusable fault are void.

**Article 1987.- Liability of the insurer**

The compensation action may be directed against the insurer for the damage, who will be jointly and severally liable with the person directly responsible for it.

**Article 1988.- Legal determination of the damage subject to insurance**

The law determines the type of damage subject to the mandatory insurance regime, the persons who must take out the policies and the nature, limits and other characteristics of such insurance.

**BOOK VIII: PRESCRIPTION AND EXPIRY****Title I: Extinctive prescription****Article 1989.- Extinctive prescription**

The prescription extinguishes the action, but not the right itself.

**Article 1990.- Irrevocability of the prescription**

The right to prescribe is inalienable. Any agreement intended to prevent the effects of prescription is void.

**Article 1991.- Waiver of the prescription won**

The prescription already earned can be waived expressly or tacitly.

It is understood that there is a tacit waiver when it results from the execution of an act incompatible with the will to favor the prescription.

**Article 1992.- Prohibition to declare the prescription ex officio**

The judge cannot base his decisions on the prescription if it has not been invoked.

**Article 1993.- Computation of the prescriptive period**

The prescription begins to run from the day the action can be brought and continues against the successors of the right holder.

**Article 1994.- Grounds for suspension of the prescription**

The prescription is suspended:

1.

1. When people with restricted capacity to exercise contemplated in article 44 paragraphs 1 to 8 do not have their legal representatives.
2. Between the spouses, during the validity of the joint property partnership.
3. Among the persons included in article 326.
4. Between minors and their parents or guardians during parental authority or guardianship.
5. Among the people with restricted capacity to exercise contemplated in article 44 numeral 9 and the people who provide the necessary support, during the exercise of the support provided.
6. During the time that elapses between the petition and the appointment of the curator of property, in the appropriate cases.
7. Between legal persons and their administrators, as long as they continue in the exercise of the position.
8. As long as it is impossible to claim the right before a Peruvian court.

#### **Article 1995.- Resumption of the prescriptive period**

Once the cause of the suspension has disappeared, the prescription resumes its course, adding the time previously elapsed.

#### **Article 1996.- Interruption of the prescription**

The prescription is interrupted for:

1.

- I. Recognition of the obligation.
2. Intimation to constitute the debtor in default.
3. Summons with the demand or by other act with which the debtor is notified, even when a judge or incompetent authority has been resorted to.
4. Judicially oppose compensation.

#### **Article 1997.- Ineffectiveness of the interruption**

The interruption becomes ineffective when:

1.

- I. It is proved that the debtor was not summoned with the claim or was not notified with any of the other acts referred to in article 1996, paragraph 3.
2. The plaintiff withdraws from the claim or from the acts with which he has notified the debtor; or when the defendant withdraws from the counterclaim or the exception with which he has opposed the compensation.
3. The process ends by default.

### **Article 1998.- Restart of the prescriptive period**

If the interruption occurs for the causes set forth in article 1996, paragraphs 3 and 4, the prescription begins to run again from the date on which the resolution that ends the process is enforceable.

### **Article 1999.- Allegation of suspension and interruption**

Suspension and interruption can be claimed by anyone who has a legitimate interest.

### **Article 2000.- Principle of legality in prescriptive terms**

Only the law can set the statute of limitations.

### **Article 2001.- Limitation periods**

They prescribe, unless otherwise provided by law:

- 1.- At the age of ten, the personal action, the real action, the one that arises from an execution and the nullity of the legal act.
- 2.- At seven years of age, the action for damages and losses derived for the parties from the violation of a simulated act.
- 3.- After three years, the action for the payment of remuneration for services rendered as a consequence of non-employment relationship.
- 4.- After two years, the action for annulment, the revocation action, the compensation action for extra-contractual liability and the corresponding one against the representatives of the incapacitated derived from the exercise of the position.
- 5.- At the age of fifteen, the action that comes from alimony.

### **Article 2002.- Compliance with the prescriptive period**

The prescription occurs expired on the last day of the term.

## **Title II: Expiration**

### **Article 2003.- Effects of expiration**

The expiration extinguishes the right and the corresponding action.

### **Article 2004.- Legality in expiration periods**

The expiration periods are set by law, without admitting a contrary agreement.

### **Article 2005.- Continuity of expiration**

The expiration does not admit interruption or suspension, except in the case provided in article 1994, paragraph 8.

### **Article 2006.- Declaration of expiration**

The expiration can be declared ex officio or at the request of a party.

### **Article 2007.- Compliance with the expiration period**

The expiration occurs after the last day of the term, even if it is non-working.

## **BOOK IX: PUBLIC RECORDS**

### **Title I: General provisions**

#### **Article 2008.- Types of records**

The public records covered by this Book are the following:

1.
  1. Registry of real property.
  2. Registry for legal persons.
  3. Registry of mandates and powers.
  4. Personal registration.
  5. Register of wills.

6. Registry of intestate successions.
7. Register of movable property.

### **Article 2009.- Legal regime of records**

Public records are subject to the provisions of this Code, its laws and special regulations.

The records of ships, aircraft, agricultural pledge and others regulated by special laws are included in the preceding paragraph.

### **Article 2010.- Title that gives merit to the registration**

Registration is made by virtue of a title that appears in a public instrument, unless otherwise provided.

### **Article 2011.- Principle of Rogation**

The registrars qualify the legality of the documents by virtue of which the registration is requested, the capacity of the grantors and the validity of the act, based on what results from them, their antecedents and the entries in public registries.

The provisions of the preceding paragraph do not apply, under the responsibility of the Registrar, in the case of part that contains a judicial resolution ordering the registration. If this is the case, the Registrar may request the Judge for clarifications or additional information that he or she needs, or require the payment of applicable taxes to be accredited, without prejudice to the priority of entering the Registry.

### **Article 2012.- Principle of advertising**

It is presumed, without admitting proof to the contrary, that everyone has knowledge of the content of the inscriptions.

### **Article 2013. Principle of legitimation**

The content of the registry entry is presumed true and produces all its effects, as long as it is not rectified by the registry authorities or its invalidity is declared by the judicial or arbitration body by means of a final resolution or award.

The registry entry must be canceled at the administrative headquarters when the identity theft or documentary falsification is proven and the assumptions thus established in accordance with current provisions.

The registration does not validate the acts that are null or voidable in accordance with the current provisions.

#### **Article 2014. Principle of good public registry faith**

The third party who, in good faith, acquires for consideration some right of a person who appears in the registry with powers to grant it, maintains its acquisition once their right is registered, even if the grantor's right is later annulled, rescinded, canceled or resolved by virtue of causes that do not appear in the registry entries and the archived titles that support it.

The good faith of the third party is presumed until it is proven that he knew of the inaccuracy of the record.

#### **Article 2015.- Principle of Successive Tract**

No registration, except the first, is made without the right from which it emanates is registered or registered.

#### **Article 2016.- Principle of priority**

The priority in the time of registration determines the preference of the rights granted by the registry.

#### **Article 2017.- Principle of impenetrability**

An incompatible title cannot be registered with another already registered, even if it is from a previous date.

### **Title II: Registry of real property**

#### **Article 2018.- First registration of domain**

For the first domain registration, titles must be exhibited for an uninterrupted period of five years or, failing that, supplementary titles.

#### **Article 2019.- Acts and registrable rights**

They are inscribable in the registry of the department or province where each property is located:

1.- The acts and contracts that constitute, declare, transmit, extinguish, modify or limit the real rights over real estate.

2.- Option contracts.

3.- Property reservation and resale agreements.

4.- Total or partial compliance with the conditions on which the effects of the registered acts or contracts depend.

5.- The restrictions on the powers of the owner of the registered right.

6.- Lease contracts.

7.- The plausibly accredited liens and demands.

8.- Judgments or other resolutions that at the discretion of the judge refer to registrable acts or contracts.

9.- The judicial authorizations that allow the practice of registrable acts on real estate.

#### **Article 2020.- Preventive annotation**

The regulations indicate the cases in which the acts or contracts referred to in article 2019 are subject to preventive annotation.

#### **Article 2021.- Non-registrable acts or titles**

The acts or titles referring to the sole possession, which have not yet complied with the acquisitive prescription period, are not registrable.

#### **Article 2022.- Opposition of rights over registered real estate**

To oppose real rights over real estate to those who also have real rights over them, it is necessary that the opposing right is registered prior to that of the one to whom it opposes.

In the case of rights of a different nature, the provisions of common law apply.

#### **Article 2023.- Registration of option contract**

The registration of option contracts grants during their validity a preferential right over all real or personal rights that are registered later.

### **Title III : Registration of legal persons**

## **Article 2024.- Books that make up the Registry of Legal Persons**

This record consists of the following books:

- 1.- Of associations.
- 2.- Of foundations.
- 3.- Of committees.
- 4.- Of civil companies.
- 5.- Of peasant and native communities.
- 6.- Of cooperatives.
- 7.- Of companies of social property.
- 8.- Of public law companies.
- 9.- Of the others established by law.

## **Article 2025.- Inscriptions in the books of legal persons**

In the books of associations, foundations and committees are entered the data required in articles 82, 101 and 113. In the book of civil societies, the registration is made in compliance with the law on the matter. The following are also enrolled in them:

- 1.- Modifications to the deed or statute.
- 2.- The appointment, powers and dismissal of administrators and representatives.
- 3.- The dissolution and liquidation.

## **Article 2026.- Legal persons governed by special laws**

The registration of peasant and native communities, cooperatives, social property companies and other legal entities governed by special laws, is carried out at their request.

## **Article 2027.- Acts inscribable in the book of public law companies**

The following acts are registered in the book of public law companies:

- 1.- The law of creation and its modifications.
- 2.- The regulation or statute and its modifications.
- 3.- The appointment, removal and resignation of the members of the management body.
- 4.- The appointment and powers of administrators and representatives.
- 5.- The law that orders its dissolution, transformation or transfer.
- 6.- All those acts that by provision of its special rules must be registered.

#### **Article 2028.- Place of registration and formality for certain acts**

The constitution of the legal person is entered in the registry corresponding to its domicile.

The granting of a public deed is not required for the registration of the appointment of representatives, agents and granting of powers. For your registration, the presentation of a notarized copy of the pertinent part of the certificate containing the respective agreement is sufficient.

In the constitution of legal persons, modification of statutes or regulations that import a change of name, the right to reserve the name registration preference is applicable for a period of 30 business days, after which it expires fully.

A name equal to that of a legal person in formation that enjoys the right of reservation or is registered in the corresponding Registry may not be adopted .

#### **Article 2029.- Registration of legal persons incorporated abroad**

Legal persons incorporated abroad are registered in the corresponding registry of the place they designate as domicile in the country.

### **Title IV: Personal record**

#### **Article 2030.- Recordable acts and resolutions**

They are registered in this registry:

- 1.- The resolutions or public deeds establishing or modifying the designation of support and safeguards for natural persons.
- 2.- The resolutions that declare the disappearance, absence, presumed death, absence due to forced disappearance and recognition of the existence of the persons.
- 3.- Judgments imposing disqualification, civil interdiction or loss of parental authority.
- 4.- The acts of discernment of the positions of guardians or curators, with an enumeration of the inventoried properties and a list of the guarantees provided, as well as their removal, termination, termination and resignation.
- 5.- The resolutions that rehabilitate the injunctions in the exercise of civil rights.
- 6.- Resolutions that declare the nullity of marriage, divorce, separation of bodies and reconciliation.
- 7.- The asset separation agreement and its replacement, the unconventional separation of assets, the corresponding security measures and their cessation.
- 8.- The declaration of initiation of the bankruptcy procedure, as well as the other acts and agreements that can be registered in accordance with the law on the matter.
- 9.- The resolutions that designate the tutor or support and those that leave them without effect.
- 10.- The de facto unions registered through a notary or recognized by the court.

#### **Article 2031.- Registration of judicial decisions**

For the registrations provided for in Article 2030, the judicial resolutions must be enforceable, except as ordered regarding bankruptcies in the law on the matter.

#### **Article 2032.- Judicial Parties**

In the case of Article 2031, the Judges order to pass parts to the registry, under responsibility.

#### **Article 2033.- Place of registration**

Registrations are made in the office that corresponds to the domicile of the person concerned and, in addition, in the place where the properties are located, if applicable.

#### **Article 2034.- Effects of the omission of the registration**

The lack of registration of the act in the place where it should have been done, motivates that it does not affect third parties who enter into onerous contracts and in good faith in that place.

### **Article 2035.- Cancellation of registrations**

Registrations are canceled when ordered by the Judge or when the justification for the cancellation results from the documents presented when requesting it.

## **Title V: Registry of mandates and powers**

### **Article 2036.- Registrable instruments**

They are registered in this registry:

1.
  1. The instruments stating the mandate or power in a general way or for certain acts.
  2. The instruments stating the substitution, modification and termination of the power or mandate, if applicable.

### **Article 2037.- Place of registration**

Registrations are made in the Registry of the place where the mandate or representation will be permanently exercised.

### **Article 2038.- Right of the third party in good faith**

The third party who in good faith and for consideration has contracted on the basis of a mandate or power registered in the registry of the place where the contract is entered into, will not be harmed by a mandate, power, modifications or terminations of these not registered.

## **Title VI: Register of wills**

### **Article 2039.- Recordable acts and resolutions**

They are registered in this registry:

- 1.- The wills.
- 2.- The modifications and extensions of the same.
- 3.- Revocations of the acts referred to in paragraphs 1 and 2.

4.- Enforceable judgments on nullity, falsity or expiration of wills.

5.- The enforceable sentences in the judgments on justification or contradiction of the disinheritance.

6.- The deeds revoking the disinheritance.

#### **Article 2040.- Place of Registration**

The inscriptions are made in the register of the testator's domicile and, in addition, in the place of location of the real estate if they are designated in the will.

### **Title VII: Intestate Succession Records**

#### **Article 2041.- Recordable acts and resolutions**

Notarial acts and enforceable judicial resolutions declaring the heirs of the deceased are obligatorily entered in this registry . Likewise, the preventive annotations of the application for intestate succession sent by the notary will be registered, as well as the demands that, at the discretion of the judge, are registrable.

#### **Article 2042.- Registration places**

The resolutions referred to in Article 2041 are registered in the corresponding register of the deceased's last domicile and, in addition, in the place of location of the movable and immovable property, if applicable.

### **Title VIII: Records of movable property**

#### **Article 2043.- Recordable personal property**

The subject of these registries is the personal property that can be registered according to the law.

#### **Article 2044.- Identification of movable property**

The form of identification of the movable property is determined by the law creating the respective registry.

#### **Article 2045.- Registrable acts and contracts**

All acts and contracts established in article 2019 are inscribable in these registries, as far as they are applicable.

## **BOOK X: PRIVATE INTERNATIONAL LAW**

### **Title I: General provisions**

#### **Article 2046.- Equal rights for Peruvians and foreigners.**

Civil rights are common to Peruvians and foreigners, except for the prohibitions and limitations that, due to national necessity, are established for foreigners and foreign legal entities.

#### **Article 2047.- Applicable standards**

The applicable law to regulate legal relationships related to foreign legal systems is determined in accordance with the relevant international treaties ratified by Peru and, if they were not, in accordance with the rules of this Book.

In addition, the principles and criteria established by the doctrine of Private International Law are additionally applicable.

#### **Article 2048.- Competition of Peruvian judges**

The judges will apply only the internal law of the State declared competent by the Peruvian norm of Private International Law.

#### **Article 2049.- Incompatibility of a foreign standard**

The provisions of the pertinent foreign law according to the Peruvian rules of Private International Law will be excluded only when their application is incompatible with international public order or good customs.

In this case, the norms of Peruvian domestic law govern.

#### **Article 2050.- Recognition of rights acquired abroad**

All rights regularly acquired under the protection of a foreign legal system, competent according to the Peruvian rules of Private International Law, have the same effectiveness in Peru, to the extent that it is compatible with international public order and good customs.

#### **Article 2051.- Ex officio application of foreign regulations.**

The competent foreign law according to the Peruvian Private International Law rules must be applied ex officio.

**Article 2052.- Foreign law as evidence**

The litigating parties may offer the evidence they deem convenient about the existence of the foreign law and its meaning. The judge may reject or restrict the evidence that he does not consider suitable.

**Article 2053.- Report on the existence and meaning of the foreign regulation**

The judges may ex officio or at the request of the party, request the Executive Power, through diplomatic channels, to obtain from the courts of the State whose law is to be applied, a report on the existence of the law and its meaning.

**Article 2054.- Absolution of consultation on national law**

The Supreme Court is authorized to absolve the queries made by a foreign court, through diplomatic channels, on points of national law.

**Article 2055.- Interpretation of foreign law**

The provisions of applicable foreign law are interpreted according to the system to which they belong.

**Article 2056.- Resolution of conflicts between foreign regulations**

When different legal systems coexist in the applicable foreign law, the conflict between local laws will be resolved in accordance with the principles in force in the corresponding foreign law.

**TITLE II: Jurisdictional jurisdiction****Article 2057.- Jurisdiction over persons domiciled in Peru**

The Peruvian courts are competent to hear actions against persons domiciled in the national territory.

**Article 2058.- Competition in equity actions**

The Peruvian courts have jurisdiction to hear the lawsuits originated by the exercise of actions of patrimonial content even against persons domiciled in a foreign country, in the following cases:

1.- When actions related to real rights over property located in the Republic are aired. In the case of properties, said competition is exclusive.

2.- When actions related to obligations that must be executed in the territory of the Republic or that derive from contracts entered into or from events carried out in said territory are aired. In the case of civil actions derived from crimes or misdemeanors perpetrated or the results of which have occurred in the Republic, said jurisdiction is exclusive.

3.- When the parties expressly or tacitly submit to its jurisdiction. Unless otherwise agreed, contemporary or prior to submission, the court's choice is exclusive.

This article applies exclusively to the jurisdiction of judicial courts and does not affect the power of the parties to arbitrate actions of patrimonial content .

#### **Article 2059.- Tacit submission.**

Whoever appears at the trial without reservation is tacitly submitted to a jurisdiction.

Procedural acts aimed at opposing said jurisdiction, or carried out under the threat or imposition of coercive measures on the person or on their rights or property, do not imply submission or extension in favor of a court.

#### **Article 2060.- Extension or election of a Foreign Court in matters of national competence.**

The election of a foreign court or the extension of jurisdiction in their favor to hear the lawsuits originated by the exercise of actions of patrimonial content, will be recognized, provided that they do not deal with matters of exclusive Peruvian jurisdiction, nor constitute abuse of rights, nor are contrary to the public order of Peru.

#### **Article 2061.- Competition in actions on universality of goods**

The Peruvian courts have jurisdiction to hear the lawsuits originated by the exercise of actions related to universality of goods, even against persons domiciled in a foreign country, when Peruvian law is applicable to govern the matter, according to its rules of International Law Private.

However, the Peruvian competence to hear actions related to the assets of the declared bankrupt is respected, with respect to the assets located in Peru, and without prejudice to the provisions of Title IV of this Book.

#### **Article 2062.- Competence in personal actions**

The Peruvian courts are competent to hear the lawsuits originated by the exercise of actions related to the status and capacity of natural persons, or family relationships, even against persons domiciled in a foreign country, in the following cases:

**1.-** When Peruvian law is applicable, in accordance with its rules of Private International Law, to govern the matter.

**2.-** When the parties expressly or tacitly submit to its jurisdiction, provided that the cause has an effective connection with the territory of the Republic.

#### **Article 2063.- Forum of necessity**

The Peruvian courts are competent to issue provisional measures for the protection of natural persons who are in the territory of the Republic, even against persons domiciled in a foreign country, even if they lack jurisdiction to hear the merits of the matter.

#### **Article 2065.- Unit of the Forum**

The Peruvian court validly hearing the claim is also competent to hear the counterclaim.

#### **Article 2066.- Litispendency and res judicata**

When a previous action is pending on the same object and between the same people, the Peruvian court will suspend the case if it can foresee that the foreign jurisdiction will issue, within a period of no more than three months, a resolution that can be recognized and executed in the Peru.

The trial followed in Peru is considered started on the date of notification of the claim to the defendant.

The Peruvian court annuls the proceedings, if a foreign resolution is presented to it.

#### **Article 2067.- Negative jurisdiction of the Peruvian Court**

The jurisdictional competence of the Peruvian courts to hear the actions attempted against foreign states or their heads, diplomatic representatives, international organizations and their representatives, is regulated by the provisions of the International Treaties on the matter ratified by Peru.

Except for the provisions of this title, Peruvian courts lack jurisdictional competence to hear:

1. Of the actions related to real rights over properties located abroad.
2. Of the matters that have been submitted by the parties to a foreign jurisdiction, in accordance with the provisions of Article 2060.
3. Of actions related to the state and capacity of natural persons or family relationships, if the cause has no effective connection with the territory of the Republic.

### **Title III: Applicable law**

#### **Article 2068.- Beginning and end of the natural person.**

The beginning and end of the natural person is governed by the law of his domicile.

When a legal effect depends on the survival of one or another person and they have different domiciliary laws, and the presumptions of survival of those laws are incompatible, the provisions of article 62 apply.

#### **Article 2069.- Declaration of absence**

The declaration of absence is governed by the law of the last domicile of the disappeared person. The same law regulates the legal effects of the declaration of absence regarding the assets of the absent person.

The other legal relationships of the absentee will continue to be regulated by the law that previously governed them.

#### **Article 2070.- Status and capacity of the natural person**

The status and capacity of the natural person are governed by the law of his domicile.

The change of domicile does not alter the status or restrict the capacity acquired under the law of the previous domicile.

The legal act celebrated in Peru relating to the law of obligations and contracts is not null due to lack of capacity if the agent is capable according to Peruvian law, except in the case of a unilateral legal act, or rights over properties located abroad.

#### **Article 2071.- Institutions for the protection of the incapable**

Guardianship and other institutions for the protection of the disabled are governed by the law of their domicile.

Urgent measures for the protection of the incapacitated person who is in Peru and, where appropriate, those for the protection of their property located in the Republic, are governed by Peruvian law.

#### **Article 2072.- Rights and obligations of the State and legal person of public law**

States and other foreign legal persons of Public Law, as well as international legal persons of Public Law whose existence emanates from international agreements that are binding on Peru, may acquire rights and contract obligations in the country, in accordance with Peruvian laws.

#### **Article 2073.- Existence and capacity of legal persons of private law**

The existence and capacity of legal persons under private law are governed by the law of the country in which they were incorporated.

Legal persons of private law incorporated abroad are recognized by law in Peru, and are considered capable of exercising in the territory of the country, eventually or separately, all the actions and rights that correspond to them.

For the habitual exercise in the territory of the country of acts included in the object of its constitution, they are subject to the prescriptions established by Peruvian laws.

The capacity recognized to foreign legal entities cannot be more extensive than that granted by Peruvian law to nationals.

#### **Article 2074.- Merger of legal persons**

The merger of legal persons with different constitution laws is assessed on the basis of both laws, and the law of the place of the merger when it takes place in a third country.

#### **Article 2075.- Capacity and essential requirements of marriage**

The ability to marry and the essential requirements of marriage are governed, for each of the parties, by the laws of their respective domiciles.

#### **Article 2076.- Formality of marriage**

The form of marriage is governed by the law of the place of its celebration.

#### **Article 2077.- Rights and duties of the spouses.**

The rights and duties of the spouses in everything when it comes to their personal relationships, are governed by the law of the marital domicile. If the spouses have different domiciles, the law of the last common domicile applies.

#### **Article 2078.- Marriage property regime**

The patrimonial regime of marriage and the relations of the spouses with respect to the assets are governed by the law of the first conjugal domicile. The change of domicile does not alter the competent law to govern the relations of the spouses with regard to the goods acquired before or after the change.

#### **Article 2079.- Nullity of marriage**

The nullity of the marriage is governed by the same law to which the intrinsic condition is subject, the infringement of which motivates said nullity.

The vices of consent, as causes of nullity of marriage, are governed by the law of the place of celebration.

#### **Article 2080.- Effects of the nullity of the marriage**

The law of the conjugal domicile governs the effects of the nullity of the marriage, except those referring to the property of the spouses, which follow the law of the marriage property regime.

#### **Article 2081.- Divorce and separation of bodies.**

The right to divorce and separation of bodies are governed by the law of the conjugal domicile.

#### **Article 2082.- Causes and effects of divorce and separation of bodies.**

The causes of divorce and separation of bodies are subject to the law of the conjugal domicile. However, causes prior to the acquisition of the domicile that the spouses had at the time these causes occurred cannot be invoked.

The same law is applicable to the civil effects of divorce and separation, except those related to the property of the spouses, which follow the law of the marriage property regime.

#### **Article 2083.- Marital affiliation**

Marital affiliation is determined by the law most favorable to legitimacy, between those of the celebration of the marriage or that of the marital home at the time of the child's birth.

#### **Article 2084.- Extramarital filiation**

The determination of extramarital filiation, as well as its effects and its challenge, are governed by the law of the common domicile of both parents and of the child or, failing that, by that of the domicile of the parent who has possession of status with respect to the child..

If neither parent has possession of the estate, the law of the child's domicile shall apply.

### **Article 2085.- Recognition of child**

The recognition of the child is governed by the law of his domicile.

### **Article 2086.- Legitimation**

The legitimation by subsequent marriage is governed by the law of the place where it is held. However, if the law of the child's domicile requires his consent, it must also be applied.

The capacity to legitimize by state or judicial declaration is governed by the law of the legitimant's domicile; and the ability to be state or judicially legitimized, by the law of the child's domicile; the legitimation requiring the concurrence of the conditions required in both.

The action to challenge the legitimation is subject to the law of the child's domicile.

### **Article 2087.- Adoption**

The adoption is regulated by the following rules:

**1.-** For the adoption to be possible, it is required that it be permitted by the law of the domicile of the adopter and that of the domicile of the adoptee.

**2.-** The law of the domicile of the adopter corresponds to regulate:

a.- The ability to adopt.

b.- The age and marital status of the adopter.

c.- The eventual consent of the adopter's spouse.

d.- The other conditions that the adopter must fill in to obtain the adoption.

**3.-** The law of the domicile of the adoptee corresponds to regulate:

a.- The ability to be adopted.

b.- The age and marital status of the adoptee.

c.- The consent of the minor's parents or legal representatives.

d.- The eventual breaking of the kinship of the adoptee with the blood family.

e.- The authorization of the minor to leave the country.

#### **Article 2088.- Rights over tangible assets.**

The constitution, content and extinction of the real rights over tangible assets are governed by the law of their situation, at the time the real right is constituted.

#### **Article 2089.- Tangible assets in transit**

Tangible assets in transit are considered to be located in the place of their final destination.

The parties may submit the acquisition and loss of real rights over tangible assets in transit to the law that regulates the original legal act of the constitution or loss of such rights, or to the law of the place of issue of the tangible assets.

The choice of the parties is not enforceable against third parties.

#### **Article 2090.- Displacement of tangible assets**

The displacement of tangible assets does not influence the rights that have been validly established under the rule of the previous law . However, such rights can only be opposed to third parties after the requirements established by the law of the new situation have been met.

#### **Article 2091.- Prescription of actions on tangible assets**

The prescription of actions related to tangible assets that change location during the limitation period, is governed by the law of the place where the time necessary to prescribe is completed, in accordance with the law of said place.

#### **Article 2092.- Rights on means of transport**

The constitution, transfer and extinction of the real rights over the means of transport subject to a registration regime, are regulated by the law of the country where it was made.

#### **Article 2093.- Real rights over works**

The existence and scope of real rights relating to intellectual, artistic or industrial works are governed by the provisions of treaties and special laws; and if these are not applicable, by the law of the place where said rights have been registered.

Local law establishes the requirements for the recognition and exercise of such rights.

#### **Article 2094.- Form of legal acts and instruments**

The form of legal acts and instruments is governed by the law of the place where they are granted or by the law that regulates the legal relationship that is the object of the act. When the instruments are granted before diplomatic or consular officials of Peru, the solemnities established by Peruvian law will be observed.

#### **Article 2095.- Contractual obligations**

The contractual obligations are governed by the law expressly chosen by the parties and, failing that, by the law of the place of fulfillment. However, if they must be fulfilled in different countries, they are governed by the law of the main obligation and, if this cannot be determined, by the law of the place of celebration.

If the place of performance is not expressly determined or does not result unequivocally from the nature of the obligation, the law of the place of celebration applies.

#### **Article 2096.- Autonomy of the will**

The competent law, in accordance with the provisions of article 2095, determines the applicable mandatory rules and the limits of the autonomy of the parties' will.

#### **Article 2097.- Extra-contractual liability**

Tort liability is regulated by the law of the country where the main activity causing the damage is carried out. In the event of liability by omission, the law of the place where the alleged perpetrator should have acted is applicable.

If the law of the place where the damage occurred considers the agent responsible, but not the law of the place where the activity or omission that caused the damage occurred, the first law is applicable, if the agent should have anticipated the production of the damage in said place, as a consequence of his act or omission.

#### **Article 2098.- Obligations originated by the law and other sources.**

The obligations that are born by mandate of the law, business management, enrichment without cause and undue payment, are governed by the law of the place in which the original act of the obligation was carried out or should have been carried out.

### **Article 2099.- Extinctive prescription of personal actions**

The extinction prescription of personal actions is governed by the law that regulates the obligation to be extinguished.

### **Article 2100.- Succession**

The succession is governed, whatever the location of the assets, by the law of the last domicile of the deceased.

### **Article 2101.- Succession of assets located in Peru**

Peruvian law governs the succession of assets located in the Republic if, according to the law of the domicile of the deceased, they must pass to a foreign State or its institutions.

## **Title IV: Recognition and enforcement of foreign judgments and arbitration decisions**

### **Article 2102.- Principle of Reciprocity**

The sentences pronounced by foreign courts have in the Republic the force granted to them by the respective treaties.

If there is no treaty with the country in which the sentence was pronounced, it has the same force as in that country it is given to the sentences pronounced by the Peruvian courts.

### **Article 2103.- Negative reciprocity.**

If the sentence comes from a country in which the decisions of the Peruvian courts are not complied with, it has no force in the Republic.

Included in the preceding provision are judgments that come from countries where, in substance, the decisions of the Peruvian courts are reviewed.

### **Article 2104.- Requirements for Exequator**

For foreign judgments to be recognized in the Republic, it is required, in addition to the provisions of articles 2102 and 2103.

1.

1. That they do not resolve on matters of exclusive Peruvian competence.

2. That the foreign court has been competent to hear the matter, in accordance with its rules of Private International Law and the general principles of international procedural jurisdiction.
3. That the defendant has been summoned according to the law of the place of the process; that you have been granted a reasonable time to appear; and that procedural guarantees have been granted to defend himself.
4. That the sentence has the authority of res judicata in the concept of the laws of the place of the process.
5. That there is no pending trial in Peru between the same parties and on the same object, initiated prior to the filing of the claim that originated the judgment.
6. That it is not incompatible with another judgment that meets the recognition and enforcement requirements demanded in this title and that has been previously issued.
7. That it is not contrary to public order or good customs.
8. Let reciprocity be proven.

#### **Article 2105.- Foreign judgment on bankruptcy.**

The Peruvian court that hears the recognition of a foreign bankruptcy judgment, can dictate the pertinent preventive measures from the presentation of the request for recognition.

Recognition in Peru of a foreign bankruptcy judgment must comply with the notification and publicity requirements set forth in Peruvian law for national bankruptcies.

The effects of the bankruptcy decreed abroad and recognized in Peru, will be adjusted to the Peruvian law with respect to the assets located in Peru and the rights of the creditors.

The judge will proceed according to what is established in Peruvian law regarding the formation, administration and liquidation of the estate in Peru, satisfying the rights of the creditors domiciled and the debts registered in Peru, according to the graduation indicated in the law bankruptcy.

If there are no creditors domiciled or registered in Peru, or if, after they have been satisfied in accordance with the preceding paragraphs, there is a positive balance in the assets of the bankrupt, said balance will be remitted to the bankruptcy administrator abroad, prior exequatur Before the Peruvian judge of the verification and graduation of the credits made abroad.

#### **Article 2106.- Execution of foreign judgment**

The foreign judgment that meets the requirements established in articles 2102, 2103, 2104 and 2105 can be executed in Peru at the request of the interested party.

### **Article 2107.- Formality of the request for execution of foreign judgment**

The application referred to in article 2106 must be accompanied by a copy of the full sentence, duly legalized and officially translated into Spanish, as well as the documents that prove the concurrence of the requirements established in this title.

### **Article 2108.- Procedure for declaration of execution of foreign judgment**

The procedure for the declaration of enforceability is in accordance with the provisions of the Code of Civil Procedures. Once the procedure is completed, the foreign judgment will have the same enforceability as national judgments.

Foreign judgments dealing with non-contentious matters of optional jurisdiction do not require an exequatur.

### **Article 2109.- Probative value of legalized foreign judgment**

Duly legalized foreign judgments produce in Peru the probative value that is recognized in public instruments, not requiring the exequatur for that purpose.

### **Article 2110.- Probative value of the foreign judgment**

The res judicata authority of a foreign judgment can be asserted within a trial if it meets the requirements established in this title, without the need to submit it to the exequatur procedure.

### **Article 2111.- Supplementary application**

The provisions of this title govern, insofar as it is applicable, also for foreign resolutions that put an end to the process and, especially, for criminal sentences in relation to civil reparation.

In the case of arbitration awards, the provisions of the General Arbitration Law shall apply exclusively.

## **Final title**

### **Chapter One: Final Provisions**

### **Article 2112.- Unification of civil and commercial contracting**

Contracts of sale, exchange, mutual, deposit and surety of a commercial nature are governed by the provisions of this Code. Articles 297 to 314, 320 to 341 and 430 to 433 of the Commercial Code are

hereby repealed.

### **Article 2113.- Repeal of the Civil Code of 1936**

The Civil Code promulgated by Supreme Decree of August 30, nineteen hundred and thirty-six is repealed, as well as the other laws that oppose this Code.

### **Chapter Two: Transitory Provisions**

#### **Article 2114.- Provisions on civil rights.**

The provisions relating to civil rights enshrined in Article 2 of the Political Constitution of Peru apply as of July thirteenth, nineteen hundred and seventy-nine.

#### **Article 2115.- Efficacy of parish records**

The items in the parish registers referring to the events carried out before the fourteenth of November, nineteen hundred and thirty-six retain the effectiveness attributed to them by the previous laws.

#### **Article 2116.- Equal inheritance rights.**

The provisions of articles 818 and 819 apply to inheritance rights caused as of July 28, nineteen hundred and eighty.

#### **Article 2117.- Law applicable to inheritance rights before and after the validity of the Code.**

The rights of the heirs of whoever died before the validity of this Code are governed by the previous laws. The succession opened since this Code governs is regulated by the rules it contains; but the testamentary provisions will be fulfilled as soon as it allows it.

#### **Article 2118.- Revocation of the closed will**

The closed will granted according to the regime prior to this Code that is in the possession of the testator or of any or any other person, is considered revoked if the testator opens, breaks, destroys or renders it useless in another way.

#### **Article 2119.- Obligation to present a closed will.**

The person who has in his possession a closed will, granted according to the regime prior to this Code, is obliged to present it before the competent judge, within thirty days of having news of the

death of the testator, under responsibility for the damage caused with your procrastination.

#### **Article 2120.- Ultraactivity of previous legislation**

The rights arising, according to it, from acts carried out under its rule are governed by the previous legislation, although this Code does not recognize them.

#### **Article 2121.- Theory of the facts accomplished**

As of its validity, the provisions of this Code shall apply even to the consequences of existing relationships and legal situations.

#### **Article 2122.- Prescription and expiration rules initiated before the validity of the Code**

The prescription initiated before the effective date of this Code is governed by the previous laws. However, if since it enters into force, the time required in it for the prescription elapses, it takes effect, although by said laws a longer period is needed. The same rule applies to expiration.