Title:
Indonesian Civil Code (excerpts)

Table of Contents:
BOOK THREE - OBLIGATIONS
   Chapter I - Concerning obligations in general
      Section 1 - General provisions
      Section 2 - Concerning Obligations to Provide Something
      Section 3 - Concerning Obligations to Do Something or Not to Do Something
      Section 4 - Concerning Compensation for Costs, Damages and Interests for Breach of Obligations
      Section 5 - Concerning Conditional Obligations
      Section 6 - Concerning Obligations with Timing Determinant
      Section 7 - Concerning Alternative Obligations or Obligations at the Option of One of the Parties
      Section 8 - Concerning Joint or Solidary Obligations
      Section 9 - Divisible and indivisible obligations
      Section 10 - Concerning Obligations Subject to Penalty
   Chapter II - Obligations arising from contracts or agreements
      Section 1 - General provisions
      Section 2 - Concerning the conditions that are required for the validity of agreements
      Section 3 - The effects of agreements
      Section 4 - Interpretation of agreements
   Chapter III - Obligations Arising Out of the Law
   Chapter IV - Concerning the Discharge of Obligations
      Section 1 - Concerning payment
      Section 2 - Concerning an offer of immediate payment followed by consignment or custody
      Section 3 - Concerning Debt Novation
      Section 4 - Concerning Compensation or Debt Setoff
      Section 5 - Concerning Debt Consolidation
      Section 6 - Concerning the Relief from a Debt
      Section 7 - Concerning the destruction of the assets owed
      Section 8 - Concerning the Invalidity and the Nullification of the Obligations
   Chapter V - Concerning sale and purchase
      Section 1 - General provisions
      Section 2 - Concerning the obligations of the seller
      Section 2 - The obligations of the buyer
      Section 3 - The right to re-purchase
      Section 4 - Specific provisions in connection with the purchase and sale of receivable debts and other intangible rights
   Chapter VI - Concerning Exchange
   Chapter VII - Concerning Rent and Let
      Section 1 - General provisions
      Section 3 - Concerning games and gambling
   Chapter XVI - Concerning the issuance of mandates
      Section 1 - Concerning the nature of the mandate
      Section 2 - Concerning the obligations of the mandatary
      Section 3 - Concerning the obligations of the mandator
      Section 4 - Concerning the various manners in which mandates are terminated

Content:
(Promulgated by publication of April 39 1847 S.NO.23)
Chapter I - Concerning obligations in general

Section 1 - General provisions

Article 1233

All obligations arise either from agreements or law. (Bw. 1313v., 1352; Rv. 102)

Article 1234

Their purpose is to provide something, to do something or not to do something. (Bw. 1235v., 1239v., 1314; Civ. 1101, 1126)

Section 2 - Concerning Obligations to Provide Something

Article 1235

Obligations to provide something include the obligation to deliver the goods and to maintain such, until the time of the delivery, as they would be maintained if in the care of a good head of the household. The extent of the lattermentioned obligation more or less depends on specific agreements; the consequences of which shall be referred to in the relevant titles. (Bw.105, 385, 612v., 784, 1033, 1157, 1356, 1444v., 1550-1, 1706v. 1715, 1744, 1801; Civ. 1136v.)

Article 1236

The debtor is required to compensate the creditor for costs, damages and interests, in the event that he is unable to deliver the goods, or in the event that he has not properly maintained them. (Bw.1235, 1243v., 1264, 1275, 1391, 1444, 1480)

Article 1237

With regard to an agreement to provide something, effective as of the conclusion of the agreement, the object becomes the creditor's liability. Liability of the debtor for failure by him to deliver the goods arises from the time of the default. (Bw.1264, 1275, 1391, 14444, 1460, 1481v., 1545, 1553, 1605, 1648, 1708, 1745v.; Civ. 1138)

Article 1238

The debtor shall be deemed in default, either by an order or other similar deed, or pursuant to the obligation itself, where such obligation stipulates that the debtor shall be in default, upon failure to deliver within the stipulated time period. (Bw. 391, 413, 579, 1243, 1362, 1626, 1805, 1979; Rv. 1v.; Civ. 1139)

Section 3 - Concerning Obligations to Do Something or Not to Do Something

Article 1239

Every obligation to do something, or not to do something, if the debtor fails to meet his obligations, is settled by way of compensation of costs, damages and interests. (Bw. 1241, 1243v., 1277, 1365v., 1383; Rv. 590v., 606a v., 765; IR. 222; Civ. 1142).

Article 1240

In such case, the creditor is entitled to claim the abolition of everything that was conducted in contravention to the obligations, and he is entitled to request the judge to authorize him abolish all such contraventions at the expense of the debtor; without prejudice to his right to claim for compensation of costs, damages and interests should there be grounds for them. (Bw. 1239, 1241, 1243, 1365; Civ. 1143).

Article 1241
If such obligation is not performed, the creditor may be authorized to implement the obligations at the expense of the debtor.

**Article 1242**

In case of obligation not to do something, then if either party acts in breach to the obligation, due to such breach and solely because of that breach, he must compensate for costs, damages and interests.

**Section 4 - Concerning Compensation for Costs, Damages and Interests for Breach of Obligations**

**Article 1243**

Compensation for costs, damages and interests for the breach of an obligation only becomes obligatory, if the debtor, after having been declared to be in default, remains in default, or in case of obligations where he must give or produce something, is only given after the lapse of a period of time.

**Article 1244**

If there is any reason for such, the debtor is compensate for costs, damages and interests if he cannot prove, that the non-performance or the late performance of such obligation, is caused by an unforeseen event, for which he is not responsible and he was not acting in bad faith.

**Article 1245**

The debtor needs not compensate for costs, damages or interests, if an act of God or an accident prevented him from giving or doing an obligation, or because of such reasons he committed a prohibited act.

**Article 1246**

Compensation of costs, damages and interests that the creditor may claim comprises of losses he had suffered and profits he would have enjoyed, subject to the limitations or modifications stipulated hereunder (Bw. 58. 1603; Civ. 1149).

**Article 1247**

The creditor is only obligated to compensate for costs, damages and interests that have already materialized or is reasonably foreseeable at the time the obligation was concluded, unless the non-fulfillment of such obligations was caused by deceit on his part.

**Article 1248**

Even if the non-fulfilment of such obligations was caused by the debtor's deceit, the compensation of costs, damages and interests to extent of profits lost and losses suffered by the creditor, only comprise of the direct consequence of the non-fulfilment of the obligations.

**Article 1249**

If in an obligation it is stipulated that the defaulting debtor must, as compensation, pay a certain sum of money, then other parties must not be given a sum more or less than that sum.

**Article 1250**

In obligations concerning the payment of a sum of money, compensation for costs, damages and interests due to late performance comprises only of interests that are stipulated by law, without prejudice to special provisions of the law.

The compensation for costs, damages and interests is obligatory, and needs not be proven by losses suffered by the creditor.
The compensation for costs, damages and interests is payable only from the day the compensation is requested to the Court, except in cases where the law stipulates that the compensation applies by law.

**Article 1251**

Interests arising from a principal sum can also bear interests, be it by request to a Court or pursuant to a special agreement, provided such request or agreement concerns interests due for one year.

**Article 1252**

Notwithstanding the foregoing, claimable gains, for example the proceeds of a pledge, rent, perpetual interest or life interest, bears interests from date of the claim or the conclusion of the agreement.

The same rule applies to the return of gains and interests paid by a third party to the creditor to relieve the debtor.

**Section 5 - Concerning Conditional Obligations**

**Article 1253**

An obligation is conditional if it is contingent on an event that may occur and is yet to occur, which either defers the obligation’s entry into force or annuls the obligation depending on whether such event occurs or not.

**Article 1254**

All conditions that are intended to do something that cannot be done, something that is contrary to morality, or something that is prohibited by the law is void and render agreements conditioned upon them inapplicable.

**Article 1255**

Conditions that are intended to not do something that cannot be done do not cause the obligations that are conditioned upon them to be inapplicable.

**Article 1256**

All obligations are void, if their implementations solely depend on the willingness of the person bound.

However if an obligation depends on an act whose execution is within the power of that person, and such act has already occurred then such obligation is valid.

**Article 1257**

All conditions must be fulfilled in the manner intended and meant by the parties concerned.

**Article 1258**

If an obligation is contingent on the condition that event that will occur within a certain time, such condition is deemed not to have existed, if such time has passed while such condition may be fulfilled at any time, and such condition is not deemed not to have existed before it is certain that the event will not occur.

**Article 1259**

If an obligation is contingent on the condition that an event will not take place within a certain time, such condition is fulfilled where such time elapses and the event has not taken place. Similarly, such condition is met if before such time elapses it becomes certain that the event will not take place; but if the time is not fixed, then such condition is not met before there is certainty that such event will not take place.

**Article 1260**
Such conditions are deemed fulfilled if the debtor prevents their fulfillment.

**Article 1261**

If the conditions are met, then such conditions apply retroactively to such time the obligation arises.

If the creditor passes before the conditions are fulfilled, then the rights pass to his successors.

**Article 1262**

A creditor may take all necessary efforts to prevent losing his rights before such conditions are fulfilled.

**Article 1263**

An obligation with conditions of deferment is an obligation that is contingent on a future event that is not certain to occur, or on an event that has already occurred but is not known to the parties.

In the first case, the obligation is not executable until such time the event occurs; in the second case, the obligation arises when such event occurs.

**Article 1264**

If an obligation is contingent on deferred conditions, then the objects of the obligation remains within the responsibility of the debtor, who is only obliged to deliver the goods when the conditions are met. If such goods perish beyond the debtor’s fault, then the obligation no longer exists between the parties. If the object depreciates beyond the debtor’s faults then the creditor may choose: terminate the obligation or demand delivery of the object in its current state without price reduction.

If the object depreciates due to the fault of the debtor, then the creditor may terminate the obligation or demand the delivery of the object with compensation.

**Article 1265**

A void condition is a condition, which if met would cause the obligation to become void and restitute the parties as though the obligation has never existed.

This condition does not delay the fulfillment of the obligation; it only obliges the creditor to return what he receives, if such event occurs.

**Article 1266**

A void condition is deemed to have been included in reciprocal agreements, in case a party does not fulfill his obligation.

In such case, the agreement is not void by law, but voidance must be requested to the Court.

The request must also be made, even though the conditions of voidance concerning the nonfulfillment of an obligation is included in the agreement.

If the conditions of voidance is not included in the agreement, then the judge, considering the situation, upon the defendant’s request, has the discretion to fix a timeframe to fulfill such obligations, but such timeframe may not exceed one month.

**Article 1267**

The party against whom the obligation is not fulfilled may opt to compel the counterparty to fulfill the agreement where such fulfillment is still possible, or demand the termination of such agreement, with compensation of costs, damages and interests.
Section 6 - Concerning Obligations with Timing Determinant

Article 1268

A time determinant does not defer the obligation but only its implementation.

Article 1269

Payment payable on the date of the time determinant is not payable until such date; however what has been paid is not reclaimable.

Article 1270

A time determinant is always presumed to be made for the benefit of the debtor, unless based on the nature of the obligation itself, or based on the circumstances, the time determinant was made for the benefit of the creditor.

Article 1271

The debtor can no longer enjoy the benefits of the time determinant, if he is declared bankrupt, or due to his mistake the value of the security given to the creditor decreases.

Section 7 - Concerning Alternative Obligations or Obligations at the Option of One of the Parties

Article 1272

Under an alternative obligation the debtor is discharged from his obligation if he delivers one of the two objects stipulated in the obligation, but he cannot require the creditor to accept a part of one object and a part of another object.

Article 1273

The right to opt is vested with the debtor where such right is not expressly vested with the creditor.

Article 1274

An obligation is pure and simple, even if such obligation is structured as alternatives or at the option of one of the parties, if one of the two objects of the obligations cannot serve as the object of the obligation.

Article 1275

An alternative obligation is a pure and simple obligation, if one of the promised objects is lost, or due to the fault of the debtor can no longer be delivered. The price of such object may not be offered as substitute. If both objects are lost, and the debtor is at fault for the loss of one of them, he must pay for the price of the object that was lost last.

Article 1276

If matters stipulated in the previous article is left to the discretion of the creditor to choose, and only one of the objects is lost, then if the loss of such object is not due to the fault of the debtor, the creditor must receive the remaining object.

If the loss of one of objects was due to the fault of the debtor, then the creditor may claim for the delivery of the remaining object or the price of the loss object.

If both objects are lost, the creditor may, if the loss of both objects, even if only the loss of one was due to the fault of the debtor, claim for the price of one of them at his discretion.

Article 1277

The same principle applies, in the event of payment for the price of one of the objects in cases where there are more than
two objects stipulated in the obligation as well as in obligations to do something.

Section 8 - Concerning Joint or Solidary Obligations

Article 1278

A solidary or joint obligation occurs among several creditors if in an agreement it is expressly stipulated that each creditor is given the right to claim the satisfaction of the entire liability and the payment to one of the creditors frees the debtor from the liability even if the obligation by its nature is separable and divisible amongst the said creditors.

Article 1279

It is at the discretion of the debtor to choose whether he will make payment to one of the creditors insofar as he has not been demanded by one of them.

Notwithstanding the foregoing, relief by one of the creditors in a joint obligation does not relieve the debtor beyond the share owed to the said creditor.

Article 1280

A solidary obligation occurs on the part of the debtors, where they are collectively obligated to make a similar performance, such that each may be individually demanded to perform the entire obligation, and the satisfaction by one of the debtors relieves the other debtors vis-a-vis the creditor.

Article 1281

An obligation may have solidary nature, even if one of the debtors is obligated to fulfill a similar performance in a different manner from the other debtors, for example if one debtor is conditionally obligated while obligations vis-a-vis others are plain and simple obligations, or where a time determinant applies onto one but onto the others.

Article 1282

No obligation is deemed as solidary, unless it is expressly stipulated as such.

This provision is only excepted where an obligation by virtue of the law is deemed as solidary obligation.

Article 1283

A creditor in a solidary obligation may claim his receivables from one of the debtors that he chooses and such debtor may not request for such debt to be divided.

Article 1284

A claim against one of the debtors does not prevent the creditor to enforce his rights against the other debtors.

Article 1285

If the objects that must be delivered are lost because of one or more of the solidary debtors, or after such persons have been held liable, the other solidary debtors are not relieved of their obligations to pay the price of the objects, they are only exempt from paying compensation of costs, damages and interests.

The creditor may only claim for the compensation of costs, damages and interests from those debtors who are at fault for the loss of such objects or from those who are in breach of the obligation.

Article 1286

The claim for interests against one of the solidary debtors has the consequence of such interests becoming applicable against the other solidary debtors.
Article 1287
A debtor in a solidary obligation against whom the creditor claims may rely on all defences arising from the nature of the obligation and all defences that apply to himself, as well as those defences applicable to the other solidary debtors.

He may not rely on defences that are applicable only to the other solidary debtors.

Article 1288
If one of the debtors becomes the only successor of the creditor, or the creditor becomes the only successor of one of the debtors, then such debt mixture is not cause the obligation to be satisfied other than shares of the concerned debtor or creditor.

Article 1289
A creditor who has agreed to the division of his receivables vis-a-vis a debtor retains his solidary receivable against the other solidary debtor, less the share of debtor whom he has released from the solidary obligation.

Article 1290
A creditor who separately accepts the share of one of the debtors, without stating upon the performance being made, that he reserves his rights that arise from the solidary debt or his rights in general, does not relinquish his rights that arise from solidary obligations other than the rights vis-a-vis the said debtor

The creditor is not deemed to relieve the debtor of the solidary obligation, if he accepts a sum in the amount of a debtor’s share, if the letter of receipt does not explicitly state that what has been received is for the satisfaction of the share or such debtor.

The same applies to claims against one of solidary debtor, as long as such person is yet to satisfy the claim, or a court has not yet decided the dispute.

Article 1291
A creditor who receives a share of one solidary debtor for the payment of back interests of a debt separately and without stating his intention to reserve his rights, loses the rights that arise out of the solidary obligations only insofar as to interests that have become due and payable, and not the interests that have yet become due and payable or to the principal debt, unless such separate payment has been recurrently for ten years.

Article 1292
An obligation, even of the debtors are solidarily obligated to the creditor, is divisible by itself amongst the debtors, who are not amongst themselves obligated for more than his share.

Article 1293
A debtor in a solidary obligation who has fulfilled the entire debt may not claim from the other solidary debtors more than each of their shares.

If one of the debtors is unable to pay, the losses caused therefrom will be divided pro-rata among the other debtors and the debtor who has fulfilled the obligation.

Article 1294
If a creditor relieves one of the debtors in a solidary obligation, and one of the remaining debtors becomes insolvent, the share of the insolvent debtor will be borne by the other debtors on a pro-rata basis, including those debtors who were relieved from their solidary obligations before that time.

Article 1295
In a matter for which several persons have jointly bound themselves that concerns only one of such persons, then they will be severally bound for the entire of the obligation to the creditor but amongst themselves they will be deemed as the guarantor of the person who must perform such obligation, and they must be compensated by such person as applicable to guarantors.

Section 9 - Divisible and indivisible obligations

Article 1296

An obligation is divisible or indivisible if the subject matter is goods the delivery of which, or a deed the implementation of which, is capable or incapable of division, plainly or intangibly. (Bw. 728, 739, 892, 1160, 1299v., 1721; Civ.1217).

Article 1297

An obligation is indivisible, notwithstanding that the object or deed that forms the subject matter is divisible in its nature, if, based on its purpose, the obligation cannot be delivered or implemented in parts. (Bw. 1160, 1300v.; Civ. 1218)

Article 1298

That an obligation is solidary by nature does not in itself entail that it is an indivisible obligation (Bw. 1283, 1292, 1301v., 1983; Civ. 1219).

Article 1299

A divisible obligation must be between the debtor and the creditor, as though such obligation is indivisible; ; the divisibility of the obligation is only applicable to the successors who are unable to claim the receivables or are not obligated to settle the debts other than their respective shares as the successor or the representatives of the creditor or debtor. (Bw. 1100v., 1311v., 1390, 1527v., 1721; Civ. 1220)

Article 1300

The provisions set out in the previous article does not apply with respect to the successors of the debtor in the following matters:

1. in the event that the debt relates to a hypothec; (Bw. 1101v., 1105, 1163, 1198)
2. if the debt comprises of specific goods; (Bw. 1083, 1391)
3. if with respect to a debt the creditor may choose from a number of goods and one of them proves to be indivisible; (Bw. 1272v.)
4. if, pursuant to the agreement, only one of the successors is required to perform the obligation; (Bw. 800, 959, 965, 967).
5. if, either due to the nature of the obligation, or due to the nature of the goods which form the subject matter of the obligation, or due to the purpose set out in the obligation, it is apparent that the parties intended that the debt is not be settled in parts. (Bw. 1297)

In the first three instances, the successor who is in possession of the goods owed, or of the goods which serve as security for the debt, may be sued for the entire debt, or for the encumbered goods, without prejudice to his right to recover from the other successors. In the fourth instance, only the successor who is liable for the debt may be prosecuted, and in the fifth instance, each successor can also be sued for the entire debt, without prejudice to the right of the latter-mentioned to recover from the other successor. (Civ. 1221)

Article 1301

Each individual, who is jointly responsible for an indivisible debt, is liable for the entire debt, even if the obligation was not concluded on a solidary basis. (Bw. 1160, 1163, 1278v., 1297, 1310; Civ. 1222)

Article 1302
The same is also apply to the successors of those individuals, who are bound by a similar obligation. (Bw. 1102v., 1310, 1721; Civ. 1223)

**Article 1303**

Each successor to the creditor may demand the implementation of an indivisible contract in its entirety.

No successor shall be permitted to individually discharge the entire debt, or receive a sum in lieu of the goods.

If only one of the successors has discharged the debt, or has accepted the value of the goods, the other successors is not claim the indivisible goods, unless they is have regard to the share of the successor who has discharged the debt or has received the value thereof. (Bw. 1278, 1289, 1385, 1438, 1721; Civ. 1224).

**Section 10 - Concerning Obligations Subject to Penalty**

**Article 1304**

A stipulation of penalty is a stipulation which obliges a person to perform something as an assurance against an obligation, should he fail to perform the obligation (Bw. 1243, 1249; Civ. 1226)

**Article 1305**

The nullification of the principal obligation renders void the stipulation regarding penalty. However, the nullification of the stipulation regarding the penalty is, in no manner, render the principal obligation void (Bw. 1315, 1317; Civ. 1227)

**Article 1306**

The creditor, may, in lieu of claiming the penalty stipulation against the breaching debtor, demand the fulfillment of the principal obligation (Civ. 1228).

**Article 1307**

Penalty stipulation shall be invoked in lieu of compensation of costs, damages and interest, for the creditor’s loss resulting from the failure of the debtor to comply with the principal obligation.

However, he may not claim for the principal debt and the penalty simultaneously, except where such penalty is imposed in the event of delay in performance (Bw. 1243, 1249, 1312; Civ. 1229).

**Article 1308**

Whether or not the principal obligation stipulates a specific time period within which the obligation must be performed, the punishment is not be imposed until the individual who is bound to provide something, or to receive something, or to do something, has failed to perform. (Bw. 1235, 1238, 1243, 1245, 1250, 1268; Civ. 1230)

**Article 1309**

The punishment may be revised by the judge, in the event that the principal obligation has been partially fulfilled. (Bw. 1249; civ. 1231)

**Article 1310**

If a principal obligation, which contains a penalty provision, concerns indivisible assets, the penalty shall be imposed as a result of breach by any one of the successors of the debtor and the entire debt may be claimed either from the individual who is in breach, or the respective shares can be claimed from each successor, without prejudice to their rights to claim compensation from the individual as a result of whom the punishment has been imposed, regardless of the rights of creditors who hold hypothecs. (Bw. 116, 1285, 1301; Civ. 1232)
Article 1311

If the original obligation containing a punishment provision concerns divisible objects, the punishment is imposed solely upon the successors of the debtor who have breached such obligation, and only to the extent of his share in the principal obligation, and claim shall be filed against the individuals who have fulfilled the obligation.

The rule is excepted, if the penalty provision is supplemented with the purpose that the obligation will not be partially fulfilled and one of the successors has prevented the fulfillment of the obligation in full; in such case, penalty may be claimed against the successor, and from the remaining successors only their shares, without prejudice to the remaining successors’ rights to claim compensation for the payment made from the breaching successor (Bw. 1200, 1306; Civ. 1233).

Article 1312

If a divisible principal obligation, which contains a stipulation of indivisible punishment, has only been partially fulfilled, the punishment is, with regard to the successors of the debtor, be substituted with compensation of costs, damages and interest. (Bw. 1296, 1299, 1306v.)

Chapter II - Obligations arising from contracts or agreements

Section 1 - General provisions

Article 1313

An agreement is an act pursuant to which one or more individuals bind themselves to one another. (Bw. 1233v.; Civ. 1101)

Article 1314

An agreement is concluded gratuitously or onerously.

The gratuitous agreement, is an agreement in which one party grants a benefit to the other party without any benefit in return.

An agreement pursuant to a charge is an agreement in which each party is obligated to provide something, to do or not to do something. (Bw. 1234, 1666; Civ. 1105v.)

Article 1315

In general, an individual may only commit to or agree to something for and on behalf of himself. (Bw. 1316, 1340, 1357, 1382v., 1645, 1655, 1792, 1820; Civ. 1119)

Article 1316

Notwithstanding this, an individual may guarantee the fulfillment of a third party's commitments, without prejudice to the claim for compensation of damages against the individual who has guaranteed the third party or has agreed to secure the third party, if such third party refuses to fulfill the contract. (Bw. 1338, 1645, 1823, 1873; Civ. 1120)

Article 1317

An individual may also enter into an for the benefit of a third party, if such agreement, which the individual concludes on his own behalf, or gift granted by him to another party, contains a provision to this effect.

An individual, who has concluded such an agreement may not revoke it, if the third party has declared his intent to rely on it (Bw. 1323, 1338, 1669v., 1688, 1778, 1823; Civ. 1121).

Article 1318
An individual shall be presumed to have entered into an agreement for his own benefit, and for the benefits of his successors and individuals having rights thereto, unless the contrary is expressly stipulated or is apparent from the nature of the agreement (Bw. 175, 178, 807-1, 833, 955, 1575, 1612, 1743, 1784, 1813, 1826; Civ. 1122).

Article 1319

All agreements, whether or not known under specific titles, shall be subject to the general provisions, which shall be the subject of this and the previous title. (Civ. 1107)

Section 2 - Concerning the conditions that are required for the validity of agreements

Article 1320

In order to be valid, an agreement must satisfy the following four conditions:
1. there must be consent of the individuals who are bound thereby; (Bw.28, 1321v.)
2. there must be capacity to enter into an obligation; (Bw. 1329v.)
3. there must be a specific subject matter; (Bw. 1332v.)
4. there must be a permitted cause. (Bw.1335v.; Civ. 1108)

Article 1321

No consent is valid if it is granted based on mistake or obtained by duress or fraud. (Bw. 893, 1449, 1452, 1454, 1456, 1859, 1926; Civ. 1109)

Article 1322

A mistake does not render an agreement invalid unless such mistake pertains to the substance of the subject matter of the agreement.

A mistake does not result in invalidity if it relates only to the identity of an intended party to the contract, unless the agreement is solely concluded with regard to this specific individual (Bw. 1618, 1666, 1851v.; Civ. 1110).

Article 1323

Duress against an individual who has entered into an agreement, provides grounds for nullification of the agreement, even if it was committed by a third party who does not benefit from the agreement. (Bw. 893, 1053, 1065, 1325; Civ. 1111)

Article 1324

Duress takes place where an act is of such nature that it causes fear in a reasonable person that he or his wealth could be exposed to significant and immediate disadvantage.

In consideration thereof, one is have regard to the age, sex and the status of the individuals involved. (Civ. 1112)

Article 1325

Duress nullifies an agreement not only if it is committed against one of the parties thereto, but also if it is committed against their spouses or kin in the ascending or descending line. (Bw. 290v., 1323, 1449; Civ. 1113)

Article 1326

The fear out of deference towards father, mother or other kin in the ascending line, without additional duress, is insufficient for the nullification of the agreement. (Bw. 298; Civ. 1114)
An individual cannot claim for the nullification of an agreement on the grounds of duress, if, following the cessation of the duress, the agreement is accepted, whether expressly or impliedly, or if the individual has allowed the time period stipulated by law for reinstatement to lapse. (Bw. 1115, 1449v., 1454, 1456, 1892; Civ. 1115)

Article 1328

Fraud is form grounds for nullification of an agreement, if the fraud by one party is of such nature that it is apparent that the other party would never have concluded the agreement were it not for such deceit. Fraud is not be presumed, but must be proven. (Bw. 1053, 1065, 1449, 1865, 1922; Civ. 1116)

Article 1329

Each individual is authorized to conclude agreements, unless he has been declared incompetent by law. (Bw. 1330, 1467, 1640; Civ. 1123)

Article 1330

The following individuals are incompetent to conclude agreements:
1. minors; (Bw. 330, 419v., 1006, 1446v.)
2. individuals under guardianship; (Bw. 433v., 446v., 452, 1446v.)
3. married women, in the events stipulated by law, and in general, individuals who are prohibited by law from concluding specific agreements. (Bw. 399, 1446v., 1451, 1465v., 1640; F 22; Civ. 1124)

Article 1331

Individuals who under the previous article are incompetent to enter into agreements may claim for the nullification of the obligations, except for where the law excludes such power.

Individuals who are competent to bind themselves may not at all invoke the incompetence of the minors, individuals under guardianship, and married women, with whom they have concluded an agreement. (Bw. 109, 113, 116v., 151, 1447, 1456, 1701v., 1798, 1892; Civ. 1125)

Article 1332

Only tradable properties may form the subject matter of agreements. (Bw. 519v., 537, 1954; K.599; Civ.1128)

Article 1333

An agreement must at least have as a subject a matter a property whose nature is determined.

The quantity of the matter needs not be ascertained, insofar such quantity can be determined or calculated at a later date. (Bw. 968v., 1272v., 1392, 1461, 1465; Civ. 1129)

Article 1334

Future properties may be the subject of an agreement. An individual may however, relinquish an inheritance which has not occurred or conclude an agreement regarding such inheritance, notwithstanding that he has obtained the consent of the testator; without prejudice to the provisions in articles 169, 176 and 178. (Bw. 141, 1063, 1254, 1667, 1774; Oogstverb. 3; Credverb. 3-5; Civ. 1130)

Article 1335

Any agreement without a cause, or concluded pursuant to a fraudulent or prohibited cause, is not be enforceable. (Bw. 890v.; civ. 1131)

Article 1336

In the event that no cause is specified but that there is an existing permissible cause.
other than the one specified, the agreement shall be valid. (Bw. 1878; Civ. 1132)

Article 1337

A cause is prohibited if it is prohibited by law, or if it violates morality or public order. (AB. 23; Bw.139, 891, 1254, 1619; Civ. 1133)

Section 3 - The effects of agreements

Article 1338

All valid agreements apply to the individuals who have concluded them as law. Such agreements are irrevocable other than by mutual consent, or pursuant to reasons stipulated by the law. They must be executed in good faith. (Bw. 751, 1066, 1243v., 1266v., 1335v., 1363, 1603, 1611, 1646-3, 1688, 1813; Civ. 1134)

Article 1339

Agreements bind the parties not only to that which is expressly stipulated, but also to that which, pursuant to the nature of the agreements, shall be imposed by propriety, customs, or the law. (AB.15; Bw. 1347v., 1482, 1492, 1800v., 1817, 1819; civ. 1135)

Article 1340

An agreement applies only to the parties thereto. An agreement cannot be detrimental to third parties; third parties cannot benefit from them, except for the case stipulated under Article 1317. (Bw. 1178, 1523, 1815, 1818, 1857; F.152; Civ. 1165)

Article 1341

(S.06-348) However, each creditor may claim for any act committed by the debtor whatsoever, which was not necessary and detrimental to the creditor, to be set aside, provided that it is proven that while committing the act, the debtor as well as the individual with whom he committed the act or on whose behalf he acted, was aware that it would result in detriment to the creditors.

Rights over the goods that constitute the subject matter of the act set aside, which were acquired by third parties in good faith, are honoured.

In order to set aside the acts committed by the debtor for free, it suffices if the creditor proves that the debtor was aware at the time the act was committed that he would jeopardize his creditors, regardless of whether or not the beneficial party shared that knowledge. (Bw. 192, 920, 977, 1061, 1067, 1166, 1185, 1454, 1922, 1952; Credverb. 5; F.30, 41v.; Civ. 1167)

Section 4 - Interpretation of agreements

Article 1342

If the wording of an agreement is clear, deviation from it by way of interpretation is not permitted. (Bw. 855)

Article 1343

If the wording of an agreement is open to several interpretations, one is ascertain the intent of the parties involved rather than be bound by the literal sense of the words. (Bw. 886, 1257, 1473, 1855; Civ. 1156)

Article 1344
If an agreement is open to two interpretations, one is interpret it in the sense that renders possible performance, instead of one that renders performance impossible. (Bw. 887; Civ. 1157)

**Article 1345**

Wording which is open to two kinds of interpretation must interpreted in the sense which corresponds most with the nature of the agreement. (Bw. 887; Civ. 1158)

**Article 1346**

If the wording is ambiguous, it shall be interpreted in a manner which is customary in the country or in the location where the agreement was entered into. (AB. 15; Civ. 1159)

**Article 1347**

Customary provisions shall be deemed to be implied in the agreement, notwithstanding that these have not been expressed. (Bw. 1339, 1492; Civ. 1160)

**Article 1348**

All stipulations, contained in an agreement, shall be interpreted having regard to their relationship to one another; each shall be interpreted having regard to its relationship to the whole agreement. (Civ. 1161)

**Article 1349**

In the event of ambiguity, the agreement shall be interpreted against the party who stipulates something, and in favor of the party who has bound himself thereto. (Bw. 1273, 1473, 1509, 1865, 1879; Civ. 1162)

**Article 1350**

Regardless of the generality of the wording of an agreement, it is cover the matters regarding which the parties clearly intend at the time of concluding the agreement. (Bw. 1854; Civ. 1163)

**Article 1351**

If a party has specified something in an agreement for the purpose of clarifying the obligation, he is not be deemed to have restricted or limited the binding validity by law, which is contained in the unexpressed cases. (Civ. 1164)

### Chapter III - Obligations Arising Out of the Law

**Article 1352**

Obligations arising out of law arise by law alone or by law as a result of people acts. (Bw. 307v., 320v., 383, 385, 452, 625v., 1005, 1233, 1353, 1903-1; K.321; Civ. 1370)

**Article 1353**

Obligations that arise by law as a result of people acts result from a lawful or an unlawful act. (Bw. 1354v., 1365v.; Civ. 1370)

**Article 1354**

If an individual, voluntarily, without having been assigned thereto, manages the affairs of a person with or without the knowledge of that person, he is impliedly bind himself to continue and complete the management, until the person whose interests are managed is in a position to manage such affairs himself. (K.154, 264)
He must similarly involve himself in everything related to such affairs.

He is subject to all the undertakings which he would be obliged to comply with, in the event that he had been empowered by a specific authorization. (Bw. 374, 1645, 1792, 1800v., 1817; Civ. 1372)

**Article 1355**

He is obligated to continue his management, notwithstanding that the person whose interests he has assumed may pass away prior to the completion of the matter, until such time that the heir can take over such management. (Bw. 1800; Civ. 1373)

**Article 1356**

He is obligated, with respect to such management, to fulfill the obligations in the manner of a proper head of a household.

Nevertheless, the judge is authorized to reduce the compensation of costs, damages and interest resulting from the error or negligence of the manager, depending upon the circumstances, which have caused him to manage the affairs. (Bw.1235, 1243; Civ. 1374)

**Article 1357**

The person whose interests have been properly managed, is bound to fulfill any obligation, which has been concluded by the manager on his behalf, and is indemnify him in respect to all agreements concluded by him personally, and is compensate him for all beneficial and necessary expenses. (Bw. 1807v.; Civ. 1375)

**Article 1358**

An individual, who manages the affairs of a person without authorization, is not entitled to any remuneration. (Bw. 1794; Civ. 1986)

**Article 1359**

Each payment presumes a debt; each payment which was not made pursuant to a debt may be reclaimed.

With respect to gratuitous obligations which one has fulfilled voluntarily, there is no reclamation. (Bw. 1269, 1382v., 1766, 1791; Civ. 1235)

**Article 1360**

An individual, who has inadvertently or knowingly accepted something that was not owed to him, must return such to the individual from whom he has accepted it. (Bw. 531, 1321, 1364; Civ. 1376)

**Article 1361**

If an individual, who inadvertently considers himself to be a debtor, has repaid a debt, he shall be entitled to reclaim the payment from the creditor.

However, this right is extinguished, if as a result of the payment, the creditor has destroyed the acknowledgment of the debt, without prejudice to the right of reclamation of the individual who has paid from the actual debtor. (Bw. 1359, 1382, 1766, 1791; Civ. 1377)

**Article 1362**

An individual, who in bad faith has accepted something not owed to him, must return it with interest and proceeds, effective as of the day of payment, without prejudice to the compensation of costs, damages and interest with respect to depreciation in the value of the goods.

If the goods are destroyed, notwithstanding that such destruction occurred by accident, he is obligated to pay the value thereof together with compensation of costs, damages and interest, unless he can prove that the goods would also have
been destroyed had they been in the care of the individual to whom they should have been returned. (Bw.532, 549, 575, 1364, 1444, 1967; Civ. 1378v.)

**Article 1363**

A person who in good faith has sold the goods he received as a payment for a debt that was not owed to him, may remedy the situation by returning the sale price.

If he in good faith has handed over the goods gratuitously, he is not obligated to repay anything. (Bw. 531, 548, 1384, 1717; Civ. 1380)

**Article 1364**

The individual, to whom the goods are returned, is bound, including with respect to the individual who has acquired ownership over the goods in bad faith, to compensate for all necessary expenses incurred in the maintenance of the goods.

The possessor is entitled to retain possession of the goods until such expenses are reimbursed. (Bw. 548v., 567, 574v., 579, 1139-4, 1148, 1499; Civ. 1381)

**Article 1365**

Every unlawful act that causes damage onto another person obliges the wrongdoer to compensate such damage. (Bw. 568, 602, 1246, 1447, 1918v.; Rv. 580-7, 582; Aut. 27; Octr. 43v.; Sw.382 bis; Civ. 1382)

**Article 1366**

A person is responsible, not only for the damage which he has caused by his act, but also for that caused by his negligence or recklessness. (Bw. 654, 802, 1207, 1753; Rv. 582; Civ. 1383)

**Article 1367**

A person is responsible for the damage which was caused by his own act, as well as for that which was caused by the acts of the individuals for whom he is responsible, or caused by matters which are under his supervision. (S.27-31 jis. 390, 421)

Parents and guardians are responsible for the damage caused by minor children who live with them and over whom they exercise parental authority or guardianship.

Employers and those who have appointed others to manage their affairs are responsible for the damage caused by their servants and subordinates in the course of the duties assigned to them.

Teachers and craftsmen are responsible for the damage caused by their students and apprentices, during the period the latter are under the earliers’ supervision.

The abovementioned responsibilities cease, if the parents, guardians, school teachers and work supervisor can prove that they could were unable to prevent act, for which they would be liable. (Bw. 299, 802, 1368v., 1566, 1613, 1710, 1803; K. 321v., 331v.,358a, 373, 534v.; WVO.28; Civ.1384;Bb.1056, 2803,3146)

**Article 1368**
The owner of an animal, or an individual who uses one, as long as the animal remains under his usage, is responsible for any damage caused by the animal, whether the animal is under his supervision and in his custody, or whether it is lost or has escaped. (Sw. 490; Civ. 1385)

Article 1369

The owner of a building is responsible for the damage caused by an entire or partial collapse of the building, should this occur due to neglect in maintenance or as a result of a flaw in the construction or interior of the building. (Bw. 654, 1366, 1609; Civ. 1386)

Article 1370

In the event of willful or negligent homicide, the surviving spouse, children or parents of the victim, who has been supported by the earnings of the victims, are entitled to claim for compensation, based on the status and the financial conditions of the victim as well as the pertinent circumstances. (AB.28v.; Bw. 1365, 1380, 1918v.)

Article 1371

Willful or negligent injury to or maiming of any part of the body entitles the injured party to claim compensation for expenses incurred in the recovery caused by the injury or the maiming in addition to compensation.

This is also evaluated based upon the status and the financial condition of the individuals involved, and upon the circumstances.

This last stipulation is in general applicable to the consideration of the damage resulting from any wrongdoing committed against any individual. (AB. 28; Bw. 1365v., 1918v.)

Article 1372

(S.17-497) The civil claim with respect to an insult is extend to compensation of damages and to the reinstatement of good name and honour.

The Judge must, in the consideration thereof, have regard to the severity of the insult, also the position, status and financial condition of the parties involved and the circumstances. (AB.28; Bw. 1374v., 1379v., 1853, 1918; Sw. 310v.; ISR.66)

Article 1373

(Gew. S.17-497) The offended party may also demand a judgment declaring that the insult act is slanderous.

(Ing. S. 17-497) If he demands a declaration that the wrongdoing is slanderous, then the provisions of Article 314 of the Penal Code with regard to punishment for slander, is apply.

The decision is, if the wronged party so requests, be posted in public in so many copies and at the locations as ordered by the judge, at the expense of the losing party.

Article 1374

Without prejudice to his obligation to compensate, the defendant can prevent the granting of the request referred to in the previous article, by offering and providing a public declaration before the judge, stating that he regrets the act he committed, that he therefore apologizes and that he considers the offended party to be a person of honor. (Bw. 1378)

Article 1375

(S.17-497) The claims mentioned in the previous three articles, is also apply to spouses, parents, grandparents and grandchildren, following the death of the spouses, children, grandchildren, parents and grandparents against whom the insult was committed.

Article 1376
(S.17-497) The claims mentioned in the previous three articles, is also apply to spouses, parents, grandparents and grandchildren, following the death of the spouses, children, grandchildren, parents and grandparents against whom the insult was committed.

**Article 1377**

(S.17-497) A civil legal claim also cannot be granted where the offended party has been irrevocably declared liable of the act which was alleged against him.

An individual who continues to insult another individual and who clearly intends to insult notwithstanding that the claim against him has been proven in a legal judgment or in an authentic deed shall be obligated to compensate for the damage suffered by the other party. (Bw. 1918v.; Sw. 312v)

**Article 1378**

All claims, described in the previous six articles, are extinguished due to expressly stipulated or implied releases, if following the insult and becomes known to the offended party, the offended party provides proof of reconciliation or forgiveness, which contravenes the intent to claim compensation or reinstatement of honor. (AB.30; Bw. 1374, 1853; Sv.10)

**Article 1379**

The right to claim for compensation under Article 1372, is not lost either as a result of the death of the insulter or the death of the insulted party. (Bw. 1375; Sv. 163)

**Article 1380**

(S.17-497; 38-276) The civil claim with respect to an insult lapses after one year, effective as of the day upon which the act was committed and became known to the claimant. (Bw. 1372v., 1375).

**Chapter IV - Concerning the Discharge of Obligations**

**Article 1381**

Obligations are discharged:

By payment; (Bw. 1382v.)
By offer of immediate payment, followed by consignment or custody; (Bw. 1404v.)
By renewal of the debt; (Bw. 1413v.)
By set-offs or compensation; (Bw.1425v.)
By consolidation of debts; (Bw. 1436v.)
By relief from a debt; (Bw. 1438v.)
By the destruction of the goods that were owed; (Bw. 1444v.)
By invalidity or nullification; (Bw. 1446v.)
By the operation of a nullification condition, described in the first chapter of this book; (Bw. 1265v.) and
By lapse of time, which is the subject of a separate title. (Bw. 1265, 1268v., 1338, 1646, 1963, 1967; Civ. 1234)

**Section 1 - Concerning payment**

**Article 1382**

An obligation can be fulfilled by any one individual who has an interest therein, such as a co-debtor or a guarantor. An obligation may also be fulfilled by a third party who does not have any interest in it, provided that the third party acts on behalf of and for the purpose of releasing the debtor, or, if he acts on his own behalf, he is not assume the rights of the creditor. (Bw. 109, 1280v., 1315v., 1354v., 1383, 1400v., 1405-2, 1792, 1820v.; 1823; K.158v.; Rv.591-2, Civ. 1236)
Article 1383
An obligation to do something, may not be performed by a third party if this is contrary to the intent of the creditor who has an interest in the act being performed by the debtor himself. (Bw.1239, 1612; Civ. 1237)

Article 1384
In order for a payment in the course of satisfying a debt to be valid, the person making the payment must own the property that has been provided as payment and must be authorized to transfer such property.

The payment of a sum of money or of any other perishables cannot be reclaimed from a person who has used up such payment in good faith, notwithstanding that such payment was made by one who was neither the owner nor authorized to dispose of the matter. (Bw. 505, 1239v., 1363, 1386, 1471; Civ. 1238)

Article 1385
The payment must be made to the creditor, or to an individual the creditor authorizes, or who has been authorized by a Judge or the law to accept the payment on behalf of the creditor.

A payment made to an individual who is not authorized to accept on behalf of the creditor is valid to the extent the creditor approves of it or benefits from it. (Bw. 105, 108, 307, 385, 430, 452, 464v., 1005v., 1126v., 1279, 1354, 1387, 1602, 1636, 1655, 1719, 1796, 1892; K.17,20v., 44v., 331; F.22, 226; Rv.744; Civ.1239)

Article 1386
A payment made in good faith to the person who holds a letter of receivable is valid, notwithstanding that the holder was relieved of such letter due to a punishment (Bw. 1361v.; civ. 1240)

Article 1387
The payment made to the creditor shall be invalid if he is incompetent to accept such payment, unless the debtor can prove that the creditor has truly benefited from the payment. (Bw. 108, 116, 452, 1330, 1451, 1702, 1798; Civ. 1241)

Article 1388
The payment made by a debtor to a creditor, despite a seizure or opposition, is invalid with regard to creditors who have effected the seizure or the opposition; they can also, pursuant to their right, compel the debtor to pay again, excluding in such case their right to claim compensation from the creditor. (Bw. 1434; Rv.729v.; Civ. 1242)

Article 1389
No creditor can be forced to accept the payment of a goods other than that which is owned to him, notwithstanding that the goods offered are of equal or greater value. (Bw. 1740, 1756v.; K.140; Civ. 1243)

Article 1390
No debtor may require a creditor to accept the payment of a debt in parts, notwithstanding that the debt is divisible. (Bw. 1299; K.138; Civ. 1244)

Article 1391
The debtor with respect to a certain and specific goods is discharged by the delivery of such goods in the goods’ condition at its delivery, insofar as the defects in the goods was not caused by his actions or negligence or by the fault or negligence of the individuals for whom he is responsible, or because he, before such defects arise, defaulted on the delivery of the goods (Bw. 782, 963, 1157, 1237, 1301, 1444, 1481, 1715, 1747; Civ. 1745)

Article 1392
If the goods owed are only determined according to their kind, the debtor is not required to deliver goods of the best quality in order to get discharged from the obligation, but he may not deliver goods of the worst quality (Bw. 969; Civ. 1246).

Article 1393

Payment must be made at the location stipulated in the agreement; if no such location has been stipulated, payments concerning predetermined goods takes place where the goods were located at the conclusion of the agreement.

With the exception of the two abovementioned instances, payment must take place at the residence of the creditor where he resides at the time the obligation was concluded, provided that he continues to reside thereat, in all other circumstances payment takes place at the residence of the debtor. (Bw.24, 1405-6, 1412, 1432, 1477, 1514, 1721, 1764; K. 143a, 176, 218a; Rv.310; Civ.1247)

Article 1394

In respect of payments for land and building leases, annual maintenances, perpetual annuities or life annuities, interests on borrowed moneys, and in general all debts payable on an annual or shorter basis, the presumption that previous installments are paid in full arises by way of receipt of three installments, unless proven otherwise. (Bw.1291, 1769, 1916, 1921)

Article 1395

The costs incurred in the payment of a debt are borne by the debtor. (Bw. 1407, 1466, 1476, 1724; Rv. 58; Civ. 1248)

Article 1396

A person who owes several debts has the right to declare at the time of making the payment, to which of the debts such payment is apply. (Bw. 1398, 1628; Civ. 1253)

Article 1397

A person who owes a debt upon which interest accrues, may not without the permission of the creditor, make any payment towards settlement of the principal debt by deferring interest payment.

Payments towards the principal debt and towards interest which are insufficient to settle the payable amounts, is first apply towards fulfillment of the interest payments. (Bw. 1769; Civ. 1254)

Article 1398

If an individual who has several debts has received a receipt certifying payment, in which the creditor states that that which he has applies only to one of the debts, the debtor cannot demand that the payment be regarded as the fulfillment of another debt unless there has been fraud on the part of the creditor, or the debtor was purposefully made unaware of the existence of such statement. (Bw. 1321, 1396; Civ. 1255)

Article 1399

If the receipt of payment does not stipulate which of the debts the payment was made towards, such payment must be deemed to have been made towards the debt, among the equally due and payable debts, the debtor has the strongest interest in satisfying; if however not all debts are due and payable, such payment must be deemed to have been
made towards debts that have become due and payable, ahead of those that are not yet due and payable, notwithstanding that such prioritized debts are not as burdensome as the other debts.

If the debts are of equivalent nature, settlement must be deemed to have been made towards the earliest dated; if, however, they are equal in every respect, the settlement must be deemed to have been made towards each debt on a proportionate basis.

If none of the debts is due and payable, the debts settlement is apply as if the debts have become due and payable. (Bw. 1433; Rv. 580v.; Civ. 1256)

**Article 1400**

Subrogation, or assignment of the rights of a creditor to a third party has paid this creditor, arises by agreement or by law. (Bw. 1041v.; Civ. 1249)

**Article 1401**

The assignment arises by agreement:

1. where the creditor, having accepted the payment from a third party, designates that such person will assume his rights, claims, privileges and hypothecs in respect of the debtor.

This subrogation must be expressly stated and take place at the time of payment.

2. Where the debtor borrows a sum of money for the purpose of payment of his debt and the debtor stipulates that the lender will assume the rights of the creditor, in order to validate this subrogation, both the loan agreement and the note of debt discharge must be documented in an authentic deed, and the loan document must stipulate that the loan was made to satisfy such debt; while the note of debt discharge must stipulate that the payment was made with money lent by the new creditor.

Such subrogation is arranged without the assistance of the creditor. (Bw. 400, 613, 1382, 1403, 1848; Civ. 1250)

**Article 1402**

Subrogation takes place by force of law:

1. for a creditor who satisfies the debt owing to another creditor who, based on privileged debts or hypothecs, is ranked senior to the first creditor; (Bw.1133, 1382)
2. for the buyer of any immovable property who uses the payment for the sale to repay the creditors, against whom the property is collateralized with hypothec. (Bw. 1198v.)

3. for those who, together with others or on behalf of others, are obliged to settle a debt, and who have interests in the payment of such debt; (Bw. 1106, 1202, 1204, 1280v., 1293, 1301v., 1840, 1848; K.146, 148, 162, 284)

4. for a successor who, having received an estate, pursuant to the privilege of estate description, settles the debts of the inheritance with his own money. (Bw. 1032-1; Civ. 1251)

Article 1403

The subrogation stipulated in the previous article, takes place with respect to guarantors as well as debtors; however, such subrogation cannot diminish the rights of the creditor where he has only been partly paid; in such case, he can exercise his rights in respect of the outstanding debt owing to him, with priority over the persons from whom he has received a partial payment. (Bw.1401-1, 1840; Civ.1352)

Section 2 - Concerning an offer of immediate payment followed by consignment or custody

Article 1404

If the creditor refuses to accept payment, the debtor may offer him immediate payment of the debt, and if the creditor also refuses to accept such payment, he may deposit the money or goods with the Court.

Such offer, followed by placement in custody, releases the debtor and is considered as payment in this regard, provided that it is done in accordance to the law; the goods placed in such custody shall be for the account of the creditor. (Bw. 1237, 1408, 1766; Rv.809v.; Civ.1257)

Article 1405

For such an offer to be valid, the following is necessary:

1. the offer is made to a creditor who is authorized to accept it, or to an individual who is authorized to accept on his behalf; (Bw. 1385, 1387)
2. the offer made by an individual who is authorized to pay; (Bw. 1382, 1384)
3. the offer applies to the entire of due and payable sum and interest accrued therefrom, as well as the stipulated costs, and also regarding a sum of money for the costs which have not been stipulated and subject to further stipulation; (Bw. 1390, 1406-2)
4. that a time determinant has materialized, if such has been stipulated for the benefit of the creditor; (Bw. 1270v.; K.139)
5. the condition upon which the debt arises has materialized; (Bw.1263v.)
6. the offer is made at the location where the payment, in accordance with the agreement, is take place, and in the event that no such agreement exists, to the creditor personally, either at his actual or selected residence; (Bw. 17, 24v., 1393, 1412; Rv. 443, 809)
7. the offer is made by a notary or by a process server before two witnesses. (Rv. 809v.; Not. 22; Civ. 1258)

Article 1406

In order for a consignment to be valid, authorization from the judge is not necessary; it is sufficient: (Rv. 810)
1. that the consignment is preceded by a signed notification submitted to the creditor which stipulates the date, time and location at which
the offered goods are placed in custody; (Rv.809)
2. that the debtor has relinquished his rights over the offered goods, by placing them in a deposit account or deposit with
the registrar of the court, which, should a dispute arises, will adjudicate such dispute, in addition to interests accruing up
to the day such deposit is made; (Bw. 1405-3; Rv. 580-3)
3. that a notary or a court bailiff, in the presence of two witnesses, writes an official report detailing the offered currency,
the refusal of the creditor to accept such, or his failure to appear to accept the money, and finally the consignment itself;
(Bw.1405-7)
4. that where the creditor fails to appear to accept the payment, the official report shall be forwarded to him together with
a reminder to collect the deposited property. (Rv.810; Civ. 1259)

Article 1407

The costs incurred in relation to the offer of immediate payment and consignment are borne by the creditor, on the
condition it has been carried out in accordance with the law. (Bw. 1395, 1412; Civ. 1260)

Article 1408

The debtor may retrieve deposited property insofar as the creditor has not taken the property; in such case, neither the
debtor nor the guarantor is released from the debt. (Bw. 1409v., 1845v.; Civ.1261)

Article 1409

If the debtor himself has obtained an enforceable sentence, under which which his proposed offer is declared valid, he
cannot, even with the approval of the creditor, reclaim the deposited property to the detriment of joint debtors and
guarantors. (Bw. 1404; Rv.811; Civ.1262)

Article 1410

The joint debtors and guarantors are also released, if, following the date of the notification of the consignment, the
creditor has allowed one year to lapse, without having disputed validity of such consignment.

Article 1411

A creditor, who has approved a debtor to reclaim the goods placed in deposit, after the consignment has been affirmed by
an enforceable judgment, can no longer avail to the privileges or mortgages attached to the receivables in recovering
such receivables. (Bw. 1408v., 1413, 1421; Civ. 1263)

Article 1412

Where the debt must be paid in specific property which must be delivered at the place where such property is located, the
debtor must, through the court, remind the creditor to collect the property, by a deed which must be brought to the creditor
himself or the residence of the creditor or to the residence chosen for the consummation of the agreement.

If, after having been reminded, the creditor has not taken the goods, the debtor may request the judge for authorization to
store the goods elsewhere. (Bw. 24, 1393, 1405-6, 1477, 1738-3; Civ. 1264).

Section 3 - Concerning Debt Novation

Article 1413

Debt novation arises out of the following three circumstances:

1. if for the benefit of the creditor the debtor enters into a new debt obligation that substitutes and extinguishes the original
debt;
2. if a new debtor substitutes the original debtor, whom the creditor releases from his debt;
3. if, pursuant to a new agreement, a new creditor replaces the original creditor, in respect of the latter the debtor is released from his obligations. (Bw.1400, 1417, 1421, 1790; K.236; Civ.1271)

Article 1414

Debt novation can only take place between individuals who are competent to enter into obligations. (Bw. 1329v.; Civ. 1272)

Article 1415

Debt novation must not be presumed; the intention to that effect must be obvious from the deed. (Bw. 1417, 1420, 1438; Civ. 1273)

Article 1416

Debt novation by way of substituting an original debtor for a new one may take place without the cooperation of the first debtor. (Bw. 1382; Civ. 1274)

Article 1417

Delegation of authority or transfer, in which a debtor provides his creditor with another debtor who is then be bound to the creditor, does not result in novation, if the creditor does not expressly declare that intends to release from his obligations the debtor who has executed the transfer. (Bw. 1400v., 1415, 1418, 1420, 1431; Civ. 1275)

Article 1418

A creditor, who has released a debtor who transferred his obligation, is not entitled to claim against that person in the event the substitute becomes bankrupt or insolvent, unless such right to claim has been expressly retained in the agreement, or if the substitute debtor at the time of transfer is clearly bankrupt, or if his estate is in a state of continuous decline. (Bw. 1417, 1536; F.1v; Civ.1276)

Article 1419

A debtor, who, pursuant a transfer, has bound himself to a new creditor, and as a result thereof has been released from all obligations with respect to his previous creditor, may not advance defenses against new creditor, which he could have applied to the old creditor, notwithstanding that this restriction was not notified to him at the conclusion of the new obligation; however, this does not prejudice his rights to claim recourse from the original creditor. (Bw. 1417v.)

Article 1420

An appointment by the debtor of an individual to make payment on his behalf does not result in debt novation.

The same applies to a creditor who appoints an individual merely to accept payment on his behalf. (Bw. 1415, 1417, 1792v.; Civ. 1277)

Article 1421

The privileges and hypothecs attached to the original receivable do not pass on to the substitute receivable, unless the creditor expressly retains such rights. (Bw. 1134, 1209-1, 1411, 1435; Civ. 1278)

Article 1422

If a debt novation arises out of the substitution of an original debtor for a new debtor, the privileges and mortgages that were attached to the original receivable, do not pass on to the assets of the new debtor. (Bw. 1421; Civ. 1279)

Article 1423

If a debt novation takes place between the creditor and one of severally liable severally liable debtors, the privileges and the hypothecs may be retained other than in respect of the assets of the individual enters into the new contract of
indebtedness. (Bw. 1280v., 1287, 1424; Civ. 1280)

Article 1424

A debt novation concluded between the creditor and one of severally liable debtors results in the other debtors being released from their obligations.

Debt novation in respect of the principal debtor releases the guarantors.

However, if, in the first instance, the creditor demands the participation of the co-debtors and, if, in the second instance, the participation of the guarantors, but the co-debtors or guarantors refuse to enter into the new agreement, then original debt obligation remains in effect. (Bw. 1280v., 1287v., 1430, 1437, 1442v., 1845v., 1938; Civ. 1281)

Section 4 - Concerning Compensation or Debt Setoff

Article 1425

If two persons are debtors to one another, a debt setoff takes place, as a result of which the mutual debts shall be canceled, in the manner and in the instances hereinafter stipulated. (Bw. 971, 1429v., 1602r; civ. 1289; Bb.7115)

Article 1426

A debt setoff takes place by law, notwithstanding that the debtors are unaware of it, and both debts is cancel one another out, where they exist imultaneously, in respect of the same reciprocal amount. (Civ. 1290; Bb.7115)

Article 1427

Debt setoffs take place only between two debts where the subject of both are sums of money or certain perishable goods of the same kind, and both debts may be settled and payable immediately. (Bb.3732)

Delivery of food products, grains and other agricultural products which are not being disputed, and the values of which are stipulated in price lists or other such information customarily used in Indonesia, can be setoff against settled and payable sums of money. (Bw. 505, 1263, 1269, 1271; F.52v.; Civ.1291; Bb.135, 1459, 2707, 7115)

Article 1428

An suspension of payment does not restrict setoff. (Bw. 1266, 1268v., 1760; Civ.1292)

Article 1429

A setoff takes place without regards to differences in the sources of the receivables of the parties, except:

1. where the return of some assets, from which the owner was unlawfully expropriated, is demanded;
2. where the return of assets, which have been placed in deposit or lent, is demanded; (Bw. 1694v., 1714v., 1740v.)
3. where the debt results mainly from means of livelihood which have been declared to be prohibited from seizure. (Rv. 749-2 and 3; Civ. 1293)

Article 1430

A guarantor may setoff a debt that the creditor owes the debtors who are severally liable, but the debtors who are severally liable may not compare that which the creditor owes the guarantor. The debtors who are severally liable also is not reciprocate with that which is owing from the creditor to one of the other debtors. (Bw. 1287, 1410, 1424, 1437, 1442, 1846v., 1938v.; Civ. 1294; Bb.7115)

Article 1431

A debtor who has clearly agreed to an assignment of rights by the creditor to a third party, can no longer make use of the setoff against the individual for whose benefit the assignment took place, which he could have made use of against his
creditor.

An assignment of rights, which was not approved by the debtor but which has been notified to him, is only restrict the
setoff of the debts that arose after that notification. (Bw. 613, 1417, 1420, 1435, 1533; Civ. 1295)

Article 1432

If the mutual debts are not payable at the same location, they may not be setoff unless there is reimbursement of the
costs incurred in the assignment. (Bw. 1393, 1395, 1405, 1412; Civ. 1296)

Article 1433

Where there are several debts capable of being setoff and being claimable from one person, such set off accord to the
rules stipulated under article 139. (Bw. 1397; Civ. 1297)

Article 1434

A setoff may not take place to the detriment of the rights acquired by a third party.

In this regard, a debtor who later becomes a creditor, after the seizure by a third party of that which is owed, cannot, to
the detriment of the seizer, benefit from debt setoff. (Bw. 1388; Rv. 728v., 744; Bb. 1459; Civ. 1298)

Article 1435

A person who has settled a debt, which by law has been extinguished as a result of a setoff, may no longer upon claiming
the debt which he has setoff, rely on the privileges and hypothechs attached to such debts to the disadvantage of a third
party, unless he has valid grounds for pleading ignorance of the existence of the debt with which his debt should have
been setoff. (Bw. 1426; Civ. 1299)

Section 5 - Concerning Debt Consolidation

Article 1436

Where the statuses of creditor and debtor are united in one and the same person, a consolidation of debt takes place by
law and as a result such debt is extinguished. (Bw. 706, 718-1, 736, 754-1, 807-3, 818, 1032, 1539, 1727; Civ.1300)

Article 1437

Consolidation of debts which takes place in respect of the principal debtor also applies to the benefit of his guarantors.

If it takes place with the guarantor, it is not result in the nullification of the principal contract.

If it takes place with one of the debtors who are severally liable, it is benefit the other debtors who are severally liable in
respect only of the part of the debt which he owes. (Bw. 1288, 1293, 1410, 1424, 1430, 1442, 1821, 1846, 1938v.; Civ.
1301)

Section 6 - Concerning the Relief from a Debt

Article 1438

A relief from a debt may not be presumed, but must be proven. (Bw. 1415, 1441, 1865; Civ. 1315)

Article 1439

The voluntary return of an original private proof of debt by the creditor to the debtor, is prove the discharge of the debt,
even with respect to the co-debtors who are severally liable. (Bw.1279v., 1321, 1857, 1874v., 1878, 1916; Civ. 1282)

Article 1440
The relief of a debt or the release granted pursuant to an agreement for the benefit of one of the co-debtors who are severally liable, is release all the others, unless the creditor expressly reserves his rights with respect to the latter mentioned; in which case, he cannot claim the debt until after the deduction of the share of the individual whose debt has been discharged. (Bw. 1279v., 1287, 1289, 1442, 1857; Civ. 1285)

**Article 1441**

The return of assets provided as collateral is not be sufficient proof of the discharge of a debt. (Bw. 1150v., 1438; Civ. 1286)

**Article 1442**

The discharge of a debt, or the release pursuant to an agreement, granted to the principal debtor, is also discharge the guarantors. The discharge granted to the guarantor is not release the principal debtor. The discharge granted to one of the guarantors, is not release the others. (Bw. 1410, 1424, 1430, 1437, 1821, 1838, 1846v., 1938; Civ.1287)

**Article 1443**

The amount received by a creditor from a guarantor for fulfillment of the guarantee, shall be deducted from the debt, and shall be used to settle the debt of the principal debtor and the other guarantors. (F.131; Civ.1288)

**Section 7 - Concerning the destruction of the assets owed**

**Article 1444**

Where a certain specific assets that constitute the subject matter of the agreement are destroyed, becomes unmerchantable, or are lost, to the extent that one is not aware whether or not the assets still exist, the obligations are discharged, insofar as the assets are destroyed or lost due to no fault of the debtor, and prior to his defaulting on delivering the assets.

Notwithstanding the default of the debtor on delivering the goods, which were previously not insured against unforeseeable events, the obligations are also discharged if the goods would have perished in a similar manner had they been delivered to the creditor.

The debtor must prove the unforeseen circumstances he asserts.

(S.17-497) Irrespective of the manner in which the goods are lost or destroyed, the individual who has expropriated these assets are not relieved from the obligation to compensate the value thereof. (Bw. 579-3, 718-2, 736, 754-5, 795, 807-6, 818, 923, 999, 1099, 1157, 1235v., 1244, 1264, 1275, 1285, 1327, 1332v., 1362, 1472, 1510, 1553, 1605, 1607, 1646-2, 1648, 1708, 1744v.; Civ.1302)

**Article 1445**

If the assets owed are destroyed, becomes unmerchantable or are lost through no fault of the debtor, the debtor is required, if he has any rights or claims for recourse related to these assets, to assign them to the creditor. (Bw. 1716; Civ. 1303)

**Section 8 - Concerning the Invalidity and the Nullification of the Obligations**

**Article 1446**

All obligations concluded by minors or individuals under guardianship, are void by law, and must be declared void pursuant to claims by them or on their behalf, solely on the grounds of their minority or guardianship.

Obligations concluded by married women and by minors who are acknowledged as competent, are not void by law, insofar as such obligations do not exceed their competence. (Bw.108v., 113, 116, 282, 330v., 419, 425, 429v., 452, 1330v., 1453; Civ. 1305)
Article 1447

The provision in the previous article do not apply to obligations arising out of acts of felony or violation or from any act which has caused damage to another party.

(S.26-335 jis. 458, 565 and 27-108) Minority cannot be invoked in respect to prenuptial agreements entered into by minors, in due observance of article 151, or to labor agreements, in due observance of article 1601g, or to labor agreements to which article 1601f applies. (Bw. 1365v.; civ. 1309v.)

Article 1448

(S.27-31 jis. 390, 421) If the formalities for the benefit of minors and individuals under guardianship and which are required for the validity of certain deeds have been complied with, or if the person who exercises parental authority, or the guardian who exercises guardianship, has performed acts, provided that such is not be beyond his competence, the minors and individuals under guardianship, with respect to their acts, shall be deemed to have committed such after having come of age or outside guardianship, without prejudice to their rights to claim recourse from those who exercise parental authority, the guardians, or the conservators, if there are grounds therefore. (Bw. 309, 330, 393v., 401, 403, 407, 430, 452; Civ. 1314)

Article 1449

Contracts concluded under duress, or due to error or fraud, is result in a legal claim to nullify such. (Bw. 1053, 1121, 1321v., 1452v., 1858; Civ. 1117)

Article 1450

If adults, and also minors if they have been regarded as adults, have been disadvantaged, they may only demand the nullification of the contracts, in the specific instances stipulated by law. (Ov. 79; Bw.429, 1653, 1112-3, 1113v., 1124, 1858; F.41v.; S.38-524 under Bw.1456; Civ.1118, 1313)

Article 1451

The nullification of contracts, based upon *387 the incompetence of the individuals as mentioned in article 1330, is result in the restoration of the assets and the parties to the position that they were in prior to the conclusion of the contract, provided that anything granted or paid to the incompetent parties, as a result of the contract, may be reclaimed to the extent only that such is still in the possession of the incompetent party, or to the extent that it appears that the settlement or payment has been beneficial to him, to the extent that what has been enjoyed has been used or extended for his benefit. (Bw. 116, 1387, 1446, 1702; Civ. 1312).

Article 1452

Nullification, on grounds of duress, error or fraud, is also result in the assets and the parties being restored to the position that they were in prior to the conclusion of the contract. (Bw.1451)

Article 1453

In the instances stipulated in articles 1446 and 1449, the individual against whom the legal claim for nullification is granted is also bound, to reimburse the costs, damages and interest payments, provided that there are grounds therefor. (Bw. 1243v.)

Article 1454

(S.1906-348) In all instances where the period during which a legal claim for nullification of a contract may be made is not limited to a shorter time period by a specific legal regulation, the period shall be five years. (Bw. 1489, 1500) The period shall be effective as follows: in case of minority, from the date on which the age of majority is reached; in case of guardianship, from the date that such is cease; in case of duress, from the date that such has ceased; in case of error or fraud, from the date of discovery; in case of acts of a married woman concluded without authorization of the husband, from the date of dissolution of the marriage; in case of invalidity, which was covered in article 1341, from the date upon which the required level of awareness exists.
The above-mentioned time period within which the legal claim must be filed is not apply to the invalidity which can be presented as a defense or demurrer, which may always be brought. (Bw.108, 115v., 414, 1511, 1690; F.49; Civ. 1304)

**Article 1455**

The individual, who purports to be able to claim the nullification of a contract on various grounds, is required to submit evidence of all those grounds and shall be liable to punishment upon late submission of same, unless the opposing party could not have notified such individual earlier. (Rv.41, 136)

**Article 1456**

The legal claim for nullification is lapse, if, the minor, an individual under guardianship, a married woman who has acted without the assistance of her husband, or those who can cause duress, error or fraud, have confirmed the contract expressly or by implication, following the date of the coming of age of the minor, the *388 discontinuance of guardianship, the dissolution of marriage, the discontinuance of force, or the discovery of the error or fraud. (Bw.117, 1327, 1892; Civ. 1311)

Notes regarding usury ordinance 1938 S.38-524, effective September 9, 1938 (following Article 1456 in Indonesian version)

The Royal Decision (K.B.) of July 17, 1916, Ind. S.16-643, opposing usury, is hereby revoked and Article 2 of the Usury Ordinance stipulates as follows:

Art.2 (1): If, from the beginning, a difference of value has arisen with in regard to the mutual obligations of the parties to an agreement, and the imbalance, considering the circumstances is considered to be excessive, the judge, may, at the request of the disadvantaged party, or in official capacity, limit the obligation of such party or declare the agreement void, unless there is probable cause that the disadvantaged party has fully anticipated the consequences of the agreement concluded and he has not acted frivolously, based upon lack of experience or in a state of emergency.

(2): Evidence by witnesses is admissible in all circumstances (Bw. 1895; Rv.171)

(3): Prior to passing a decision, as set forth in the first paragraph, the judge is allow the parties to speak of the circumstances which could have justified the excessive imbalance of the mutual obligations.

(4): Should the judge pass a decision, as set forth in the first paragraph, he is, in his judgment, regulate the consequences for both parties in a fair fashion, provided that in the event of nullification of the agreement, the parties shall be required to be re-instated in the condition that they were in, prior to the entering of the agreement.

**Chapter V - Concerning sale and purchase**

**Section 1 - General provisions**

**Article 1457**

A sale and purchase is an agreement, under which one party binds himself to deliver a certain goods, for which the other party is pay the agreed price. (Bw. 499, 1235v., 1332v., 1465, 1533v.; Civ. 1582)

**Article 1458**

The agreement is deemed to have been concluded between the parties as soon as they reach consensus on the subject matter and the price, notwithstanding that the subject matter has not been delivered or that payment has not been made. (Bw. 1340, 1474, 1513; Rv. 102; Civ. 1583)

**Article 1459**

The ownership rights over the assets sold do not transfer to the buyer until after delivery takes place in accordance to the provisions of articles 612, 613 and 616. (Ov.26; Bw. 584, 1475, 1686; Rv. 526; Civ. 1583)
Article 1460

If the asset sold consists of determined goods, it falls under the liability of the buyer from the time of purchase, notwithstanding that delivery has not yet taken place; and the seller is entitled to demand the purchase price. (Bw. 1237, 1266, 1444, 1462, 1481, 1513, 1545; Civ. 1138, 1624)

Article 1461

In the event that assets are not sold by quantity, but according to weight, number or size, such assets remains the liability of the seller until they are weighed, counted or measured. (Civ. 1585)

Article 1462

If, however, the assets are sold by quantity, these shall be the liability of the buyer, notwithstanding that the assets have not been weighed, counted or measured. (Bw. 1460; civ. 1568)

Article 1463

Sale and purchase by trial, or of assets that are commonly tried beforehand, is always presumed to have taken place pursuant to a condition precedent. (Bw. 1263v.; civ. 1587v.)

Article 1464

If the sale has been executed with the payment of a deposit, none of the parties can annul the sale by retaining or returning the deposit. (Bw. 1338, 1488; Civ. 1590)

Article 1465

The sale price must be determined by the parties.

The valuation, however, may be delegated to a third party.

If the third party is unwilling or unable to do so, then no sale takes place. (Bw. 1458, 1634; Civ. 1591v.)

Article 1466

The expenses incurred in relation to the sale and purchase deed and other additional costs are borne by the buyer, unless otherwise agreed. (Bw. 1395, 1476; Civ. 1593; Overscr. 10; R.v. Overschr.13)

Article 1467

No sale or purchase is take place between spouses, with the exception of in the three following instances:

1. where one of the spouses transfers the assets to the other spouse from whom he or she has been legally divorced, in order to provide the spouse with that which he or she is entitled to in accordance with the law. (Bw. 186v., 243)

2. where the transfer of asset was carried out by the husband to his wife based on valid reasons, for example to return the property of the wife that has been sold or a sum of money she owned, insofar as such properties are not part of the joint marital assets. (Bw. 105, 124, 139v., 153, 195)

3. where a wife transfers the assets to her husband in respect of the payment of a sum of money she promised as a dowry, to the extent these assets are not part of the joint marital assets. (Bw.139)

However these three instances do not prejudice the rights of the heirs of the parties involved, if one of the latter has indirectly benefited. (Bw. 105, 140, 183, 309, 393, 425, 452, 481, 985, 1678; Rv. 507; Civ. 1595)

Article 1468
Judges, members of the prosecution counsel, court clerks, attorneys, litigators, court bailiffs and notaries is not be entitled to rights and legal claims in respect of which lawsuits are still pending at the court of justice in whose legal jurisdiction they are serving; breach of this provision results in nullification and compensation of costs, damages and interest. (Bw. 1243v., 1554; Civ. 1597)

**Article 1469**

Public officials may not, on their own behalf or on behalf of other individuals, purchase assets which are sold by them or in their presence, and breach of this provision is result in the same punishment being imposed. (Bw. 1243v., 1554; Civ. 1597)

With regard to movable assets, the Government has the authority to, where deemed necessary for public interest, release the officials from such prohibition.

The Government may also in extraordinary circumstances, provided that it is in the interest of the sellers, grant permission to the officials as mentioned in this article to purchase the immovable assets which are sold in their presence. (Weesk.3)

**Article 1470**

The same punishment is also apply to the following or other individuals, who is not act as buyers in a private sale: curators of assets, the sale of which they have been assigned with; managers of assets belonging to the state and public, which have been assigned to their care and management.

It is however be at the discretion of the Government to grant release of this prohibition to the public managers.

The guardians may buy the immovable assets belonging to their wards, in the manner stipulated in article 399. (Bw. 351, 400, 452, 1243, 1454, 1792v., 1800; Civ. 1596; Weesk.7)

**Article 1471**

The sale and purchase of another person's assets is void, and may provide grounds for the buyer to claim for compensation of costs, damages and interest, if the buyer was unaware that the assets were owned by somebody else. (Bw. 582, 966, 1180, 1316, 1363, 1384, 1493v., 1496v., 1499, 1523, 1717, 1961, 1977; Civ. 1599)

**Article 1472**

If, at the time of the sale, the assets sold are entirely destroyed, the sale is void.

If, however, only parts thereof are destroyed, the buyer is entitled to rescind the sale, or claim the remaining part, and to instruct determine the sale price thereof based on proportionate appraisal. (Bw. 1275, 1320-3, 1338, 1444; Civ. 1601)

**Section 2 - Concerning the obligations of the seller**

**Article 1473**

The seller is required to clearly express his commitments; all vague and ambiguous stipulations are to be interpreted to his detriment. (Bw. 1342v., 1349; Civ. 1602)

**Article 1474**

He is have two main obligations; to deliver the sold assets and to safeguard them. (Bw. 1235, 1475v., 1491v.; Civ. 1603)

**Article 1475**

Delivery is a transfer of the assets sold into the possession and ownership of the buyer. (Bw. 612v., 1459; Civ. 1604)
Article 1476

The costs of the delivery are borne by the seller, and the pick-up costs are borne by the buyer, unless otherwise agreed. (Bw. 1495, 1466; Civ. 1608)

Article 1477

Delivery must take place at the location where the sold goods are located at the time of the sale, unless otherwise agreed. (Bw. 1338, 1393, 1412; Civ. 1609)

Article 1478

The seller is not obligated to deliver the assets, if the buyer has not paid the purchase price and if the seller has not granted him an extension of the period for payment. (Bw. 1139-3, 1144, 1182, 1390, 1514; Civ. 1612)

Article 1479

Revoked by S. 1906-348.

Article 1480

If the delivery cannot take place due to the negligence of the seller, the buyer may demand nullification of the sale in accordance with the provisions of article 1266 and 1267. (Bw. 12136, 1243, 1517; Civ. 1610)

Article 1481

The assets shall be delivered in the condition that they are in at the time of the sale. All gains belong to the buyer with effect from that date. (Bw. 500v., 571, 963, 1235, 1237, 1243, 1391, 1460; Civ. 1614)

Article 1482

The obligation to deliver assets is include anything which is attached thereto and which is intended for the owner's permanent use, including evidence of ownership, if such exists. (Bw. 507, 584, 588, 612v., 1235v., 1338v., 1481, 1533; Civ. 1615)

Article 1483

The seller must deliver that which is sold in its entirety, as stipulated in the agreement, subject *394 to amendments hereinafter mentioned. (Civ. 1616).

Article 1484

If the sale of immovable assets has taken place and stipulations have been made regarding the extent thereof or contents which are further stipulated to be subject to a certain price for that measurement, the seller shall be obligated to deliver the amount stipulated in the agreement; and if he is unable to do so, or if the buyer does not demand such, the seller shall be obligated to accept with a proportionate reduction of the price. (Bw. 1489, 1501, 1588; Civ. 1617)

Article 1485

If, however, in the circumstances referred to in the previous article, the size of the immovable assets is greater than stipulated in the agreement, the buyer is have the option to either increase the price proportionately, or to cancel the sale, if the excess exceeds one twentieth of the size stipulated in the agreement. (Bw. 1489; Civ. 1618)

Article 1486

In all other circumstances, whether regarding the sale of a certain article, or a sale which concerns separate and specific plots of land and which states the size or describes the assets sold, followed by the statement of size, the statement of the size is not provide grounds for the seller to increase the price in respect of the increase in size, nor is it provide the buyer with grounds for any reduction in the price if there is a reduction in size, other than to the extent that the difference between the actual size and the one stated in the agreement, shall be
approximately one twentieth, as computed according to the value of the entire sold assets, unless otherwise stipulated. (Bw.1484v.; Civ. 1619)

**Article 1487**

In the event that there are grounds for increasing of the sale price in respect of the increase in size in accordance with the previous article, the buyer is have the option to cancel the sale or pay the increased sale price including interest, if he has retained the immovable assets. (Bw. 1481, 1515; Civ.1620)

**Article 1488**

In all circumstances in which the buyer has the right to cancel the sale, the seller shall be bound to, in addition to the sale price, if he has received such, return the costs incurred in the sale and delivery, to the extent that he has paid such in accordance with the agreement. (Bw.1454, 1484v., 1490; Civ.1622)

**Article 1489**

The seller's legal entitlement to supplement the sale price, and the buyer's legal claim for reduction of the price or cancellation of the sale, shall be filed within a period of one year effective from the day on which delivery took place; failure to comply with such time period is cause these legal claims to lapse. (Bw. 1454, 1484v., 1490; Civ. 1622)

**Article 1490**

In the event that two plots of land in the same agreement are sold together for one price and the size of each is stipulated and it appears that one is bigger than the other, the difference shall be settled by *395 reconciling the amounts until the required amount has been reached, and the claim either for an increase in or reduction of the sale price is no longer proceed, unless in accordance with the rules mentioned above.

**Article 1491**

The obligation of the seller to the buyer to provide a warranty, ensures the following two matters, firstly, the safe and peaceful ownership of the assets sold; secondly, the security against any hidden defects in the assets, or those hidden defects which may cause cancellation of the sale. (Bw. 1084, 1208, 1474v., 1492v., 1504v., 1534v., 1990; Rv.70v.; Civ.1625)

**Article 1492**

Notwithstanding that no stipulations have been made regarding the warranty at the time of sale, the seller shall be legally obligated to indemnify the buyer against dispossession which may be enforced against the entire sold assets or part thereof, or against the encumbrances which one claims to have on such assets, and which have not been disclosed at the time of the purchase. (Bw. 1208, 1339, 1474, 1496v., 1500v., 1544; Rv.580-1; Sw. 266; Civ. 1626)

**Article 1493**

The parties may, pursuant to specific agreements increase or reduce the obligations stipulated by law; they may even agree that the seller is not be bound by any kind of warranty. (Bw. 1249, 1338, 1473, 1506, 1534; Civ. 1627)

**Article 1494**

Notwithstanding that it has been stipulated that the seller is not be bound to provide a warranty, he is remain liable for the consequences of any acts committed by him; all agreements to the contrary shall be void. (AB.23; Bw.1534; Sw.266; Civ. 1628)

**Article 1495**

The seller is, pursuant to the same stipulation, in the event of dispossession, be obliged to return the consideration for the sale, unless the buyer, at the time of the sale, was aware of the danger of dispossession or purchased the assets at his own risk. (Bw.1493, 1496-1, 1505, 1774; Civ.1629)
Article 1496

If the warranty has been provided or if nothing has been stipulated, the buyer shall be entitled, in the event of dispossession, to claim the following from the seller:

1. the return of the sale consideration; (Bw. 1495, 1497) 2. the return of the proceeds, in the event he is obligated to return those to the owner carrying out dispossession; (Bw. 575v.)
3. the costs incurred by the buyer in filing the claim, as well as the costs incurred by the original claimant; (Bw. 1503; Rv. 58)
4. the compensation of costs, damages and interest, including the legal costs incurred in the sale and delivery, to the extent that the buyer has paid such. (Bw.1208, 1243, 1246, 1466, 1476, 1488v., 1498v., 1508v.; Rv.70v.; Civ.1630)

Article 1497

If at the time of dispossession, it is discovered that the assets sold have depreciated in value or have clearly deteriorated as a result of either the negligence of the buyer or force majeure, the seller shall be bound to return the entire consideration. However, if the buyer has benefited from the damage caused by him, the seller shall be entitled to deduct an amount equivalent to the profit enjoyed by the buyer from the consideration. (Bw.1207; Civ. 1631v.)

Article 1498

If the sold assets are discovered, at the time of the dispossession, to have appreciated in value, notwithstanding that the buyer has not committed any acts, the seller shall be obligated to pay the buyer the portion of the price which exceeds the sale value. (Bw. 1207, 1496-4, 1497; Civ. 1633)

Article 1499

The seller shall be obligated to return to the buyer, or through the individual who has effected dispossession on the seller's behalf, any amount which the buyer has spent towards repairs and necessary improvements to the assets. If the seller disposes of another person's assets in bad faith, he shall be obligated to return all costs incurred to the buyer, even those which were only spent to improve or alter the assets. (Bw. 575, 579, 581, 1207, 1364, 1471, 1508; Civ. 1634v.)

Article 1500

In the event that only part of the assets is dispossessed, and that particular part, in relation to the entire assets, is so distinct that the buyer would not have made the sale without the part dispossessed, he may cancel the sale, provided that he has filed the legal claim within one year following the day on which the judgment for dispossession has obtained legal validity. (Bw.1454, 1511; Civ.1636)

Article 1501

If the sale is not canceled in the event that there is a claim for part of the sold assets, the buyer shall be compensated for the part that has been dispossessed according to the value at which the assets were appraised at the time of the dispossession, but not in proportion to the entire sale price, whether the sold assets have appreciated or depreciated in value. (Bw. 1584, 1496, 1500; Civ. 1637)

Article 1502

If the sold assets appear to be encumbered by servitude's, and this fact has not been notified to the buyer, or he is unaware of it, and the servitude's are of such significance that one has reason to presume that the buyer would not have concluded the sale if he had knowledge thereof, he may demand the cancellation of the sale, unless he is prefer to be compensated. (Bw. 1266, 1492, 1496, 1505; Civ. 1638).

Article 1503

The warranties with respect to dispossession is cease, if, the buyer, pursuant to the judgment which has obtained legal
validity, has been sentenced without having had to summon the seller, and the latter proves that there were sufficient grounds to reject the claim. *(Bw. 1496, 1865; Rv. 70v.; Civ. 1640)*

**Article 1504**

The seller shall be bound to warrant against hidden defects of the sold assets, which would render them unsuitable for the intended use, or which would reduce the use in such manner, that if the buyer had been aware of such defects, he would not have purchased those assets, or would have purchased them at a lower price. *(Bw. 1322, 1491, 1507, 1511v., 1552, 1733; Civ. 1641)*

**Article 1505**

The seller is not be obliged to be responsible for visible defects, which the buyer could have discovered himself. *(Bw.1495, 1502; civ. 1642)*

**Article 1506**

The seller shall be responsible for the hidden defects, notwithstanding that he may be unaware of them himself, unless, in that case, he had stipulated that he would not be bound to any warranties whatsoever. *(Bw. 1493v., 1507, 1552; Civ. 1643)*

**Article 1507**

In the instances mentioned in article 1504 and 1506, the buyer is have the option to either return the assets and demand a refund of the sale consideration, or keep the assets and reclaim that part of the sale price, as determined by the judge, after having consulted experts. *(Rv. 136; Civ. 1644)*

**Article 1508**

If the seller was aware of the defects in the assets, he shall be obliged, in addition to returning the sale consideration received therefor, to compensate the buyer for the costs, damages and interest. *(Bw. 1243, 1248, 1496, 1499, 1552, 1753; Civ. 1643)*

**Article 1509**

If the seller was unaware of the defects in the assets, he shall be obliged only to return the sale price, in addition to compensating the buyer for the costs incurred in the sale and delivery, to the extent that he has paid for them. *(Bw. 1496; Civ. 1646)*

**Article 1510**

If the assets sold contained hidden defects as a result of which they have been destroyed, the loss incurred shall be borne by the seller who shall be obliged to return the sale consideration and provide other compensation, as mentioned in the two previous articles; however, any loss caused by accident shall be borne by the buyer. *(Bw. 1444v., 1496; Civ. 1647)*

**Article 1511**

The legal claim resulting from defects which have caused the cancellation of the sale, shall be filed by the buyer as soon as possible, having regard to the nature of the defects, and by taking into account the customs of the locality where the sale was concluded. *(AB.15; Bw. 1454, 1500, 1507; Civ. 1648)*

**Article 1512**

This legal claim is not proceed with regard to sales which take place pursuant to legal authority. *(Rv.472,521v.; Civ.1649)*

**Section 2 - The obligations of the buyer**
Article 1513

The principal obligation of the buyer shall be to pay the sale price, at the time and location stipulated in the agreement. (Bw. 1139, 1182, 1382v., 1460, 1478, 1516; K.98; Civ. 1650)

Article 1514

If nothing has been stipulated in this regard upon concluding the sale, the buyer is to pay at the location where and at the time that delivery is occur. (Bw. 1393, 1477; Civ. 1651)

Article 1515

The buyer is, notwithstanding that there is no express agreement, be obligated to pay interest accrued upon the sale price, if the sold and delivered assets produce proceeds or other income. (Bw. 1250; Civ.1652)

Article 1516

If the buyer's ownership is interrupted by virtue of a collateral claim or pursuant to a legal reclamation, or if he has valid reasons to fear that it shall be interrupted, he may defer payment of the sale price until the seller has ceased the interruption, unless the seller chooses to provide security, or it has been stipulated that the buyer shall be obligated to pay regardless of any interruption. (Bw. 1198, 1478, 1492v., 1543; K.230v.; Civ. 1653)

Article 1517

In the event that the buyer does not pay the sale price, the seller may demand the cancellation of the sale in accordance with the provisions of article 1266 and 1267. (Bw. 1139-3, 1141, 1144v., 1182, 1481; K.230v.; F.36v.; Civ. 1654v.)

Article 1518

In the event of the sale of articles and furniture, the cancellation of the sale, for the benefit of the seller, is take place by law and without any notification, after the lapse of the stipulated time for the collection of the assets sold. (Bw. 515, 1266, 1427; Civ.1657)

Section 3 - The right to re-purchase

Article 1519

The ability to re-purchase that which has been sold arises from an agreement, pursuant to which the seller reserves the right to reclaim the sold assets, in return for the refund of the original sale price, together with the compensation referred to in article 1532. (Bw. 1169, 1265, 1524; Civ. 1659)

Article 1520

The period of validity of the right to re-purchase may not be stipulated to be for more than five years. If, however, a longer time period has been stipulated, it shall be reduced to the aforementioned five years. (Civ. 1660)

Article 1521

The stipulated time period shall be interpreted as absolute, and a judge is not be permitted to extend it, and in the event that the seller fails to make his legal claim for re-purchase within the stipulated time period, the buyer is continue to be the indisputable owner of the sold assets. (Bw. 1258, 1577; Civ. 1661v.)

Article 1522

This time period is run against all individuals, even minors, without prejudice to the right of reclamation of the relevant parties, should there be grounds therefor. (Bw. 1258, 1577; Civ. 1661v.)
Article 1523

The seller of immovable assets, who has reserved the right to re-purchase the sold assets, may exercise his right against a second buyer, notwithstanding that no provision regarding such right has been made in the second agreement. (Bw. 1340, 1342, 1471, 1577, 1977; Civ. 1664)

Article 1524

A person who has purchased pursuant to the agreement for re-purchase is succeed to all rights of the seller; he can invoke prescription against the original owner or against those who claim to have collateral or other rights to the sold assets. (Bw. 1577, 1952; Civ. 1665)

Article 1525

He may exercise the privilege of dispossession against the creditors of the seller. (Bw. 1200, 1833; Civ. 1666)

Article 1526

In the event that he, who pursuant to the agreement for re-purchase, has bought an indivisible share in immovable assets, and who, after a legal claim has been filed against him for separation and distribution, has *400 become the buyer of the entire assets, may require the seller to take over the entirety, in the event that the latter mentioned intends to invoke the aforementioned agreement. (Bw. 573; Civ. 1667).

Article 1527

If several individuals, jointly, own certain assets, and have disposed of such in the same agreement, each respective individual may exercise his right to re-purchase to the extent of his share only. (Bw. 1296, 1529; Civ. 1668)

Article 1528

The same is also apply if an individual, singularly, disposes of certain assets and leaves several heirs. Each one of these heirs may only exercise the right to re-purchase, to the extent of his share in the inheritance. (Bw. 1083, 1299, 1529; Civ. 1669)

Article 1529

However, in the circumstances referred to in the two previous articles, the buyer may demand that all other co-sellers or co-heirs, shall be summoned to agree among one another in relation to the re-purchase of the entire assets; and in the event that they fail to reach agreement, the claim for re-purchase shall be denied. (Civ. 1670)

Article 1530

If the sale of certain assets, belonging to various individuals, has not been concluded by all owners jointly and in its entirety, but each one of them has separately disposed of part of such assets which belonged to him, each owner may exercise the right to re-purchase separately, with respect to the share that is owing to him; and the buyer may not compel the party who exercises his right in this manner, to take over the entire assets. (Civ. 1671)

Article 1531

If the buyer is succeeded by several heirs, they can only exercise their right to re-purchase, to the extent of their respective shares, whether in the event that the estate has not been divided, or in the event that the assets sold have been distributed among the heirs. If, however, the estate has been divided, and the assets sold have become the share of one of the heirs, then the legal claim for re-purchase with regard to the entire assets, may be filed against him. (Bw. 1296v.; Civ. 1672)

Article 1532

The seller who exercises the agreement for re-purchase is obligated to return the original sale consideration, and also to
provide compensation for all valid costs incurred with respect to the sale and delivery, including the costs of necessary repairs, and those which have been incurred resulting in the appreciation in value of the sold assets, in the amount of such increase. He may not become the owner of the re-purchased assets, until after compliance with all such requirements. If the seller, pursuant to the provision for re-purchase, re-purchases the assets, those assets shall be free from all encumbrances and mortgages imposed by the buyer, and passed on to him; however, the seller is required to comply with any lease agreements which the buyer has entered into in good faith. (Bw. 500, 576, 762, 772, 780, 793, 817, 1265, 1577; Civ. 1673).

Section 4 - Specific provisions in connection with the purchase and sale of receivable debts and other intangible rights

Article 1533

The sale of a receivable debt is include all that is attached to it, such as guarantees, privileges and mortgages. (Bw.501, 613, 963, 1481v., 1538; K.113, 176, 194; Civ. 1692)

Article 1534

A person, who disposes of a receivable debt or another intangible right, is guarantee the existence of such right at the time of delivery, notwithstanding that the sale has taken place without any warranty. (Bw. 1491v., 1495v., 1537; K.70; Civ. 1693)

Article 1535

He is not be responsible for the financial capability of the debtor, unless he has bound himself as such, and if so only to the extent of the sale price, which he has received for the receivable debt. (Civ. 1694)

Article 1536

If he has agreed to guarantee the financial capability of the debtor, this agreement shall be interpreted as applying to the current financial capability, and is not apply to the future status, unless otherwise stipulated. (Bw. 1535; Civ. 1695)

Article 1537

An individual, who disposes of an inheritance, without stipulating the specific items, is not be bound beyond the extent of his warranty in his capacity as heir. (Bw. 1084, 1118, 1334; Civ. 1696)

Article 1538

If he has already enjoyed the profit from certain assets, or, has received the amount of the debt due to the inheritance, or has disposed of some assets from the estate, he shall be obligated to compensate the buyer for such, unless otherwise stipulated. (Bw. 1482, 1533; Civ. 1697)

Article 1539

The buyer shall be obligated to compensate the seller for all payments made with respect to the debts and encumbrances on the inheritance, and to comply with the claim filed by the seller as the creditor of the inheritance, unless otherwise stipulated. (Bw. 1100, 1338, 1436; Civ. 1698)

Article 1540

If, prior to the delivery of a receivable debt which is sold, or of another intangible right, the debtor has settled the debt with the seller, this shall be sufficient to release him from the debt. (Bw. 613, 1459; Civ. 1691)

Chapter VI - Concerning Exchange

Article 1541
An exchange is an agreement, under which the parties bind themselves to reciprocally give an object in exchange for another object.

**Article 1542**

Every object that is saleable may also be the subject of exchange.

**Article 1543**

If a party has received an exchanged object but he later proves that the counterparty is not the owner of the object, he cannot be compelled to deliver the object he has promised for his part, but only be forced to return the object he has received.

**Article 1544**

Whosoever has, because of a punishment, was compelled to relinquish an object he has received in an exchange, may opt to claim for costs, damages and interests or claim for the return of the object he has delivered.

**Article 1545**

If an object, which has been promised for an exchange, is lost beyond the fault of the owner, then the agreement is deemed null and void and the party who has performed his obligation may claim for the object he has delivered in the exchange.

**Article 1546**

For the remainder, rule on sales and purchase agreements apply to exchange agreements.

**Chapter VII - Concerning Rent and Let**

**Section 1 - General provisions**

**Article 1547**

Revoked

**Article 1548**

Renting and letting is an agreement, under which a party binds himself to confer onto another party the enjoyment over an object, for a definite period of time and for a price, which the latter agrees to pay.

**Section 3 - Concerning games and gambling**

**Article 1788**

The law is not admit any legal claim with respect to a debt resulting from games or gambling. (Sw.303, 542v.; Civ. 1965)

**Article 1789**

The aforementioned stipulation, is not include games which involve physical exercise, such as fencing, running etc. Nevertheless the judge can deny the claim or reduce it if the amount claimed appears excessive to him. (Civ.1966)

**Article 1790**

An individual may not deviate from the stipulations in the two previous articles by a renewed debt. (Bw.1413v)
Article 1791

Under no circumstances, can the individual, who has voluntarily paid for the loss, reclaim it, unless, the winner has committed fraud, deceit or embezzlement. (Bw. 1328, 1359, Sw.378; Civ. 1967)

Chapter XVI - Concerning the issuance of mandates

Section 1 - Concerning the nature of the mandate

Article 1792

A mandate is an agreement, by which an individual assigns authority to another, who accepts it, to perform an act on behalf of such mandator. (Bw.78v., 1354v.,1549, 1945; K.79v.; Civ.1984)

Article 1793

Authority may be granted and accepted pursuant to a public deed, or privately, in a letter, and may also be granted verbally. The acceptance of authority may also be implied, and shall be deduced from the implementation of the authority by the individual authorized. (Bw.79, 109, 1171, 1683, 1796, 1874, 1895v., 1945; BS.12,41; F.116; Rv.38, 150, 256,439,860; Civ.1985)

Article 1794

A mandate is take place gratuitously, unless otherwise agreed. (Bw.1021, 1358, 1549, 1801, 1808;Civ.1986) In the latter mentioned case, if the fees are not expressly stipulated, the mandatary is not demand more than that which is stipulated in article 411 in respect of guardians. (Ov.80; T.XIII-404)

Article 1795

A mandate can be either specific, being related to one or more matters, or general, being related to all matters of the mandator. (Bw.79,334,1683,1925,1934,1945;BS.12,41;K.331, 360,362;F.116;Rv. 38,150,272,439,860; Civ.1987)

Article 1796

A mandate, granted in general wording, is only extend to acts of management. A specific mandate shall be required in order to transfer assets, or encumber them, to reach a compromise, or to perform any other act of ownership. (Bw.115, 1171, 1385, 1405-1, 1683, 1934; K.362, 365; Rv.256; Civ.1988)

Article 1797

The mandatary is not do anything which is outside the scope of his authority; the authority to perform the matter by compromise is not include the authority to submit the matter to the decision of arbitrators. (Bw.1316, 1806, 1851v.; Rv.615v.; Civ.1989)

Article 1798

Women and minors may be appointed as representatives, but the mandator is not file any legal claims against minors, other than in accordance with the general provisions which apply to contracts with minors, and against married women who have accepted the authority without authorization from their husbands, in accordance with the rules, as stipulated in the fifth and seventh titles of the First Book of this Civil Code. (Bw.108v., 114v.,330,333,385v.,1006,1330v.,1446,1813; *494 K.20;Rv.617;Civ.1990)

Article 1799

The mandator may file a claim directly against the party with whom the representative had dealings on behalf of the mandator, and may demand the immediate fulfillment of the agreement. (Bw.1792, 1803; K.78)
Section 2 - Concerning the obligations of the mandatary

Article 1800

The mandatary must execute the authority, for as long as he has not been discharged from it, and shall be responsible for the costs, damages and interest incurred by not executing such authority. He must also finalize any matter, which he commenced at the time the mandator passed away, if loss could occur as a result of not finalizing the matter immediately. (Bw.1243, 1245, 1338,1354v., 1470, 1813, 1817, 1819, Civ.1991; Bb.2778)

Article 1801

The mandatary shall be liable for malice, as well as for any negligent acts committed in the course of implementing his authority.

Notwithstanding this, liability for negligence shall be less stringently enforced with regard to a party who has accepted authority gratuitously, than with regard to a party who has accepted compensation therefor. (Bw. 1235, 1328, 1356, 1707v., 1794; Civ. 1992)

Article 1802

The mandatary is required to account for his actions, and to be accountable to the mandator for anything that he has received pursuant to his mandate, notwithstanding that that which has been received might not have been owing to the mandator. (Bw. 1805, 1807; Rv.764v. Civ.1993)

Article 1803

The mandatary shall be responsible for an individual who he has designated to implement the authority in his place;

1. if he has not been authorized to designate another individual in his place;

2. if he has been granted such authority without indicating a specific individual and the individual designated by him appears to be incompetent or incapable.

The mandator is at all times be presumed to have granted the mandatary the ability to designate somebody else in his place for the management of property located outside the territory of the Netherlands Indies or on an island other than where the mandatory is established.

In any event, in this regard, the mandator may file any charges directly against the party who has been designated by the mandatory to act in his place. (Bw. 802, 1367, 1710, 1799; K.89; Civ.1994)

Article 1804

If, in the same deed, several representatives or mandataries have been appointed, they is not be severally liable, unless it has been expressly stipulated. (Bw. 1016, 1280, 1282, 1637, 1759, 1793, 1811; Civ. 1995)

Article 1805

The mandatary is settle the interest payments on the principal sums which he has expended for personal use, effective from the time that he has spent it, and the interest payments on the sums which he is required to return upon the closing of the account, shall be made effective as of the day on which he fails to exercise his authority. (Bw.391, 1238, 1243, 1250, 1626, 1718, 1767, 1801, 1810; Civ. 1996)

Article 1806

The mandatary, who has properly notified the individual with whom he has been involved in such capacity, of his mandate, is not be liable with respect to anything that occurs outside the scope of his authority, unless he had committed himself thereto personally.
Section 3 - Concerning the obligations of the mandator

Article 1807

A mandator is required to fulfill the contracts entered into by the mandatary, pursuant to the authority granted to him. He is not be bound by any other acts, except to the extent that he has expressly or implicitly validated such. (Bw.1338, 1357, 1792, 1892; K.656; Civ.1998)

Article 1808

The mandator must refund the mandatary the advances made and costs incurred in the implementation of the mandate, and must pay his fee, if such has been agreed. (Bb.3064, 3171) If the mandatary is not guilty of negligence, the mandator cannot withdraw from the obligation to return and pay the amounts mentioned above, notwithstanding failure of the matter. (Bw. 1357, 1794; Civ. 1999)

Article 1809

The mandator is also indemnify the mandatary against the losses suffered in implementing the mandate, provided that the mandatary cannot be accused of any carelessness. (Bw. 1728; Civ. 2000)

Article 1810

The mandator is owe the mandatary interest in respect of advances owed, effective as of the day on which the advance payments were made. (Bw.1250,1805; Civ.2001)

Article 1811

In the event that a mandatary has been appointed by several individuals, to undertake a matter which is applicable to all of them, each individual shall be liable to the mandator for the entire matter concerning all consequences of the mandate. (Bw.1280, 1282, 1804, 1808v.; K.18; Civ.2002)

Article 1812

The mandatary shall be entitled to retain that which he possesses which belongs to the mandator for such period of time until everything has been repaid, which he, by mandate is required to claim. (Bw.575v., 715, 725, 1139-5, 1147, 1159, 1729; K.79, 82, 84v.; F.59)

Section 4 - Concerning the various manners in which mandates are terminated

Article 1813

A mandate is terminate as follows: (Bw.470) due to revocation of the mandate granted to the mandatary; (Bw.1338v., 1814) due to termination of the mandate by the mandatary; (Bw.1636, 1800, 1817) due to the death, the guardianship, the bankruptcy or apparent insolvency, either of the mandator or the mandatary; (Bw.452, 1355, 1818v.; F.1v., 22) due to the marriage of the woman who has granted or accepted the mandate. (Bw.79, 105v., 463, 470, 1798; Civ. 2003)

Article 1814

The mandator may revoke the authority if he deems fit, and if there are grounds therefor, he may require the mandatary to return the mandate. (Bw.1187, 1636; Civ.2004)

Article 1815

The revocation which has been notified to the mandatary only, cannot be opposed by third parties, who have dealt with him unaware of this fact; without prejudice to the mandator claiming recourse from the mandatory. (Bw.1340; Civ. 2005)

Article 1816
The appointment of a new mandatary for the performance of the same function, is cause the revocation of the appointment of the first mandatary, effective as of the date of notification of the appointment to the latter mentioned. (Rv.110; Civ.2006)

**Article 1817**

The mandatary is release himself from the mandate by giving notice to the mandator. If, however, this notification due to its untimeliness, or for other reasons, is cause the mandator to suffer loss due to the fault of the mandatary, then the mandatary is compensate the mandator, unless the mandatary is unable to continue the authority, without causing significant damage to himself. (Bw.1243v., 1354v., 1800; civ.2007)

**Article 1818**

If the mandatary is unaware of the death of the mandator, or of the existence of any other reason which would cause the mandate to terminate, any acts which he has performed in ignorance of such shall be valid. In this regard, contracts entered into by the mandate shall be valid in respect of third parties who have acted in good faith. (Bw/ 1338, 1800, 1819; civ. 2008)

**Article 1819**

In the event that the mandatary passes away, *his heirs is notify the mandator of this fact, if they are aware of the mandate, and they shall be responsible for that which would have been required in the circumstances in the interest of the mandator; non-compliance is render them liable for costs, damages and interest, if there are grounds therefor. (Bw. 1243v., 1355, 1818; Civ. 2010)

**Referring Principles:**

- I.1.1 - Good faith and fair dealing in international trade
- II.1 - Prerequisites and effects of agency
- II.3 - Agent acting without or outside his authority
- II.7 - General agent
- III.1 - Set-off
- IV.1.2 - Sanctity of contracts
- IV.2.1 - Contractual consent
- IV.5.1 - Intentions of the parties
- IV.5.3 - Interpretation in favor of effectiveness of contract
- IV.5.4 - Interpretation against the party that supplied the term
- IV.5.2 - Context-oriented interpretation
- IV.6.4 - No contract to detriment of third party
- IV.6.10 - Conditions
- IV.6.11 - Plurality of debtors
- IV.6.12 - Plurality of creditors
- IV.7.1 - Invalidity of contract that violates good morals (*"boni mores"*)
- IV.7.3 - Right to avoid the contract for mistake in fact or law
- IV.7.4 - Right to avoid the contract for fraudulent misrepresentation
V.1.1 - Place of performance
VI.3 - Force majeure
VI.4 - Promise to pay in case of non-performance
VII.1 - Damages in case of non-performance
VII.2 - Principle of foreseeability of loss
VII.6 - Duty to pay interest
VII.7 - Right to charge compound interest
V.2.6 - Imputation of payments
IX.1 - Basic rule