Title:
Ethiopian Civil Code

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BOOK IV. OBLIGATIONS

TITLE XII. CONTRACTS IN GENERAL

Art. 1675. - Contract defined.

A contract is an agreement whereby two or more persons as between themselves create, vary or extinguish obligations of a proprietary nature.

Art. 1676. - Provisions applicable to contracts.

(1) The general provisions of this Title shall apply to contracts regardless of the nature there of and the parties there to.

(2) Nothing in this Title shall affect such special provisions applicable to certain contracts as are laid down in Book V of this Code and in the Commercial Code.

Art. 1677. - Scope of application of this Title.

(1) The relevant provisions of this Title shall apply to obligations notwithstanding that they do not arise out of a contract.

(2) Nothing in this Title shall affect the special provisions applicable to certain obligations by reason of their origin or nature.

Chapter 1. Formation of contracts

Art. 1678. - Elements of contract.

No valid contract shall exist unless:

(a) the parties are capable of contracting and give their consent sustainable at law;
(b) the object of the contract is sufficiently defined and is possible and lawful;

(c) the contract is made in the form prescribed by law, if any.

Section 1. Consent

Paragraph 1. Elements of consent

Art. 1679. - Consent necessary.

A contract shall depend on the consent of the parties who define the object of their undertakings and agree to be bound thereby.

Art. 1680. - Agreement of the parties.

(1) A contract shall be completed where the parties have expressed their agreement thereto.

(2) Reserves or restrictions intended by one party shall not affect his agreement as expressed where the other party was not informed of such reserves or restrictions.

Art. 1681. - Form offer and acceptance.

(1) Offer or acceptance may be made orally or in writing or by signs normally in use or by a conduct such that, in the circumstances of the case, there is no doubt as to the party’s agreement.

(2) The party who makes an offer may stipulate a special form of acceptance.


Silence where an offer is made shall not amount to acceptance.


(1) No acceptance shall be required where a party is bound by law or by a concession granted by the authorities to enter into a contract on terms stipulated in advance.

(2) In such a case, the contract shall be completed upon receipt of the offer.


(1) An offer to continue or vary an existing contract or to enter into a subsidiary or complementary contract may be accepted by silence.

(2) Such shall be the case where the offer is made in a special document informing the other party that the offer shall be regarded as accepted if no reply is given within a reasonable period of time.


Particulars entered by a party in an invoice shall not bind the other party unless they conform to a prior agreement or have been expressly accepted by the other party.

Art. 1686. - 5. General terms of business.

General terms of business applied by a party shall not bind the other party unless he knew and accepted them or they were prescribed or approved by the authorities.

Art. 1687. - Declaration of intention.
No person shall be deemed to make an offer where:

(a) he declares his intention to give, to do or not to do something but does not make his intention known to the beneficiary of the declaration; or

(b) he sends to another or posts up in a public place tariffs, price-lists or catalogues or displays goods for sale to the public.

Art. 1688. - Sale by auction.

(1) Whosoever offers a thing for sale by auction shall be deemed to make a declaration of intention and not an offer.

(2) In such a case, the contract shall be completed only where the thing is knocked down upon the last bid being made.

Art. 1689. - Public promise of a reward.

(1) A promise published by posters or in any other manner to reward the person who will find an object which has been lost or who will perform a certain act shall be deemed to be accepted where a person brings the object back or performs the act, notwithstanding that he did not know of the promise.

(2) The promisor shall give the promised reward.

Art. 1690. - Offer with time limit for acceptance.

(1) Whosoever offers to another to enter into a contract and fixes a time limit for acceptance shall be bound by his offer until the time limit fixed expires.

(2) He shall not be bound where his offer is rejected before the expiry of the time limit fixed.

Art. 1691. - Offer without time limit.

(1) Whosoever offers to another to enter into a contract and does not fix any time limit shall be bound by his offer until the time when he can reasonably expect the other party to decide on the offer.

(2) Where acceptance is late, the offeror shall forthwith inform the other party where he does not intend to be bound.

Art. 1692. - Contract between absent parties.

(1) A contract made between absent parties shall be deemed to be made at the place where and time when the acceptance was sent to the offeror.

(2) A contract made by telephone shall be deemed to be made at the place where the party was called.

(3) Nothing in this Article shall affect contrary stipulations made by the parties.

Art. 1693. - Withdrawal of offer and acceptance.

(1) An offer shall be deemed not to have been made where the offerer knows that it is withdrawn before he knew or at the time when he knows of the offer.

(2) The provisions of sub-art. (1) shall apply where acceptance is withdrawn.

Art. 1694. - Defective acceptance.

The offer shall be deemed to be rejected and a new offer shall be deemed to be made where the acceptance is made
Art. 1695. - Completion of contract.

(1) A contract shall not be deemed to be completed unless the parties have expressed their agreement to all the terms of the negotiation.

(2) A contract shall be deemed to be completed where the parties show that they intend to be bound notwithstanding that they have not expressed their agreement to all the terms of the negotiation.

(3) In such a case, the law shall remedy any deficiency in the agreement of the parties.

Paragraph 2. Defects in consent

Art. 1696. - Invalidation of contract.

A contract may be invalidated where a party gave his consent by mistake or under deceit or duress.

Art. 1697. - Mistake must be decisive.

The party who invokes his mistake shall establish that he would not have entered into the contract, had he known the truth.

Art. 1698. - Mistake must be fundamental.

A contract may be invalidated on the ground of mistake as defined in Art. 1697 where such mistake relates to an element of the contract which the parties deem to be fundamental or which is fundamental, having regard to good faith and to the circumstances in which the contract was made.

Art. 1699. - Mistake as to the nature or object of the contract.

A contract may be invalidated on the ground of mistake where:

(a) the mistake relates to the nature of the contract; or

(b) the mistaken party has undertaken to make a performance substantially greater or to receive a consideration substantially smaller than he intended.

Art. 1700. - Mistake as to the person.

A contract may be invalidated on the ground of mistake where such mistake relates to the identity or qualifications of the other party and such identity or qualifications are a fundamental element of the contract in the general opinion or having regard to the circumstances of them.

Art. 1701. - Non-fundamental mistakes.

(1) A contract may not be invalidated on the ground of mistake where such mistake only relates to the motives which led to the making of the contract.

(2) Arithmetical mistakes in a contract shall not affect its validity and shall be corrected.

Art. 1702. - Good faith of mistaken party.

(1) The mistaken party may not invoke his mistake in a manner contrary to good faith.

(2) He shall be bound by the contract he intended to make where the other party agrees to perform such contract.
Art. 1703. - Reparation of damage.

Whosoever invokes his mistake to avoid the effect of a contract shall make good the damage arising out of the invalidation of the contract unless the other party knew or should have known of the mistake.

Art. 1704. - Fraud.

(1) A contract may be invalidated on the ground of fraud where a party resorts to deceitful practices so that the other party would not have entered into the contract, had he not been deceived.

(2) A contracting party who has been deceived by a third party shall be bound by the contract unless the other contracting party knew or should have known of the fraud on the making of the contract and took advantage thereof.

Art. 1705. - False statements.

(1) A contract may be invalidated where a party in bad faith or by negligence made false statements and a relationship giving rise to a special confidence and commanding particular loyalty existed between the contracting parties.

(2) The provisions of sub-art. (1) shall apply where a party, by his silence, caused the other party to believe a fact which was untrue.

Art. 1706. - Duress.

(1) A contract may be invalidated on the ground of duress where the acts of duress led a party to believe that he, one of his ascendants or de- scendants, or his spouse, were threatened with a serious and imminent danger to the life, person, honour or property.

(2) Duress must be such as to impress a reasonable person.

(3) The nature of duress shall be determined having regard to the age, sex and position of the parties concerned.

Art. 1707. - Duress by third party.

(1) A contract may be invalidated on the ground of duress notwithstanding that duress was exercised by a person other than the party who benefited by the contract.

(2) The party who invokes duress to avoid the effect of a contract shall make good the damage arising out of the invalidation of the contract, where duress was exercised by a third party and the other contracting party did not and should not have known thereof.

Art. 1708. - Threat to exercise a right.

A threat to exercise a right shall be no ground for invalidating a contract unless such threat was used with a view to obtaining an excessive advantage.

Art. 1709. - Reverential fear.

(1) Fear of an ascendant or a superior shall be no ground for invalidating a contract where no duress was exercised.

The provisions of sub-art. (1) shall not apply where the contract was made with the person inspiring the fear and such person derived an excessive advantage from the contract.

Art. 1710. - Unconscionable contract.

(1) A contract may not be invalidated on the sole ground that its terms are substantially more favourable to one party than to the other party.
(2) Where justice requires, any such contract may be invalidated as unconscionable where the consent of the injured party was obtained by taking advantage of his want, simplicity of mind, senility or manifest business inexperience.

Section 2. Object of contracts

Art. 1711. - Determination of object.

The object of a contract shall be freely determined by the parties subject to such restrictions and prohibitions as are provided by law.

Art. 1712. - Obligation to give, to do or not to do.

(1) A party may undertake to procure to the other party a right on a thing or to do or not to do something.

(2) The party who undertakes to do something may undertake to procure to the other party a specified advantage or to do his best to procure such advantage.

Art. 1713. - Contents of contract.

The parties shall be bound by the terms of the contract and by such incidental effects as are attached to the obligations concerned by custom, equity and good faith, having regard to the nature of the contract.

Art. 1714. - Object must be defined.

(1) A contract shall be of no effect where the obligations of the parties or of one of them cannot be ascertained with sufficient precision.

(2) The court may not make a contract for the parties under the guise of interpretation.

Art. 1715. - Object must be possible.

(1) The object of a contract must be possible.

(2) A contract shall be of no effect where the obligations of the parties or of one of them relate to a thing or fact which is impossible and such impossibility is absolute and insuperable.

Art. 1716. - Unlawful or immoral object.

(1) A contract shall be of no effect where the obligations of the parties or of one of them are unlawful or immoral.

(2) A contract shall be of no effect where it appears to be unlawful or immoral that the obligations assumed by one party be related to the obligations of the other party.


The motive for which the parties entered into a contract shall not be taken into account in determining the unlawful or immoral nature of their obligations.

Art. 1718. - 2. Exception.

The court shall not order a contract to be performed where:

(a) the terms of the contract denote that the parties or one of them have an unlawful or immoral purpose in view; or

(b) the party who requires the performance of contract produces a document denoting such purpose.

Section 3. Form of contracts
Art. 1719. - Form of contracts.

(1) Unless otherwise provided, no special form shall be required and a contract shall be valid where the parties agree.

(2) Where a special form is expressly prescribed by law such form shall be observed.

(3) The parties may stipulate that the contract shall be made in a special form.

Art. 1720. - Effect of provisions as to form.

(1) Where a special form is prescribed by law and not observed there shall be no contract but a mere draft of a contract.

(2) A contract shall be valid notwithstanding that fiscal provisions, such as provisions relating to stamp duty or registration fee, have not been complied with.

(3) Unless otherwise provided, a contract shall be valid notwithstanding that prescribed measures of publication have not been complied with.

Art. 1721. - Preliminary contracts.

Preliminary contracts shall be made in the form prescribed in respect of final contracts.

Art. 1722. - Variations.

A contract made in a special form shall be varied in the same form.

Art. 1723. - Contracts relating to immovables.

(1) A contract creating or assigning rights in ownership or bare ownership on an immovable or an usufruct, servitude or mortgage of an immovable shall be in writing and registered with a court or notary.

(2) Any contract by which an immovable is divided and any compromise relating to an immovable shall be in writing and registered with a court or notary.

Art. 1724. - Contracts made with a public administration.

Any contract binding the Government or a public administration shall be in writing and registered with a court, public administration or notary.

Art. 1725. - Contracts for a long period of time.

The following contracts shall be in writing:

(a) contracts of guarantee; and

(b) insurance contracts; and

(c) any other contract in respect of which such form is required by law.

Art. 1726. - Agreed form.

A contract which the parties agree to make in a special form not required by law shall not be deemed to be completed until it is made in the agreed form.

Art. 1727. - Written form.

(1) Any contract required to be in writing shall be supported by a special document signed by all the parties bound by the
contract.

(2) It shall be of no effect unless it is attested by two witnesses.

Art. 1728. - Signature.

(1) Any party bound by a contract shall affix his handwritten signature thereto.

(2) Where a party cannot write, he may affix his thumb-mark.

(3) The signature or thumb-mark of a blind or illiterate person shall not bind him unless it is authenticated by a notary, registrar or judge acting in the discharge of his duties.


(1) Where witnesses are required by law or agreement, they shall be of age and not judicially interdicted, unless otherwise expressly provided.

(2) Sex or nationality shall not be considered in determining the capacity to act as a witness.


(1) Where necessary, the witnesses shall certify that a contract was made and the terms thereof.

(2) Unless they act expressly as guarantors, the witnesses shall not guarantee the performance of the contract.

Chapter 2. Effect of contracts

Art. 1731. - Principle.

(1) The provisions of a contract lawfully formed shall be binding on the parties as though they were law.

(2) The contents of the contract shall be determined by the parties subject to the mandatory provisions of the law.

(3) The provisions of this Title shall apply to all contracts where such provisions are of a mandatory nature or their application has not been set aside by the parties.

Section 1. Interpretation of contracts

Art. 1732. - Interpretation in accordance with good faith.

Contracts shall be interpreted in accordance with good faith, having regard to the loyalty and confidence which should exist between the parties according to business practice.

Art. 1733. - Limits of interpretation.

Where the previsions of a contract are clear, the court may not depart from them and determine by way of interpretation the intention of the parties.

Art. 1734. - Common intention of the parties.

(1) Where the provisions of a contract are ambiguous, the common intention of the parties shall be sought.

(2) The general conduct of the parties before and after the making of the contract shall be taken into consideration to this effect.
Art. 1735. - General terms.

A contract shall be deemed to relate to such matters only on which it appears that the parties intended to contract, however general the terms used.

Art. 1736. - Interpretation in accordance with the context.

(1) The provisions of a contract shall be interpreted through one another and each provision shall be given the meaning required by the whole contract.

(2) Ambiguous terms shall be given such meaning as is the more likely, having regard to the subject matter of the contract.

Art. 1737. - Positive interpretation.

Provisions capable of two meanings shall be given a meaning to render them effective rather than a meaning which would render them ineffective.

Art. 1738. - Interpretation in favour of the debtor.

(1) In cases of doubt, a contract shall be interpreted against the party who stipulates an obligation and in favour of the party who assumes it.

(2) Stipulations inserted in general provisions, models or forms of contracts prepared by one party shall be interpreted in favour of the other party.

Art. 1739. - Gratuitous contracts.

The obligations assumed by a party who derives no advantage from the contract shall be construed more narrowly.

Section 2. Performance of contracts

Art. 1740. - Performance by whom made.

(1) The debtor shall personally carry out his obligations under the contract where this is essential to the creditor or has been expressly agreed.

(2) In all other cases, the obligations under the contract may be carried out by a third party so authorised by the debtor, by the court or by law.

Art. 1741. - Payment to whom made.

Payment shall be made to the creditor or a third party authorised by the creditor, by the court or by law to receive it on behalf of the creditor.

Art. 1742. - Creditor incapable.

Payment to a creditor incapable of receiving it shall not be valid unless the debtor can show that such payment has benefited the creditor.

Art. 1743. - Payment to unqualified person.

(1) Payment to a person unqualified to receive on behalf of the creditor shall not be valid unless the creditor confirms it or such payment has benefited him.

(2) Payment shall be valid where it is made in good faith to a person who appears without doubt to be the creditor.
Art. 1744. - Doubt as to the creditor.

(1) Where there is a doubt as to who is qualified to be paid, the debtor may refuse to pay and release himself by depositing the amount due with the court.

(2) The debtor shall pay at his own risk where he is aware of litigation and pays to any of the persons who hold themselves out to be creditors.

(3) Where a case is pending in court and the debt is due, any of the persons who hold themselves out to be creditors may require the debtor to deposit the amount due.

Art. 1745. - Identity of object.

The creditor shall not be bound to accept a thing other than that due to him, notwithstanding that the thing offered to him is of the same or of a greater value than the thing due to him.

Art. 1746. - Part payment.

(1) The creditor may refuse part payment where the debt is liquidated and fully due.

(2) Where part of the debt is contented, the debtor shall pay such part of the debt as is admitted and as the creditor is willing to accept.


(1) Unless otherwise agreed, the debtor may choose the thing to be delivered where fungible things are due.

(2) The debtor may however not offer a thing below average quality.

Art. 1748. - 2. Insufficient quantity or quality.

(1) The creditor may not refuse fungible things on the ground that the quantity or quality offered to him does not exactly conform to the contract, unless this is essential to him or has been expressly agreed.

(2) Where the thing does not exactly conform to the contract, the creditor may proportionately reduce his own performance or, where he has already performed, claim damages.


(1) A debt consisting in a sum of money shall be paid in local currency.

(2) The sum of money owed by a party may be fixed by reference to the price of raw materials, goods or services or any other element whose value can be ascertained.

Art. 1750. - Currency not legal tender.

Where under the contract a debt is to be paid in a currency which is not legal tender at the place of payment, the debt may be paid in local currency at the rate of exchange on the day when the debt falls due, unless the contract contains the word "actual value" or any other provision of the same nature imposing literal performance of the contract.

Art. 1751. - Legal interest.

The rate of interest shall be of nine per cent per annum where interest is due and the rate has not been fixed.


Where a debtor is to pay costs and interest in addition to the principal, any part payment made by him shall be
appropriated firstly to the costs, secondly to the interest and eventually to the principal.

Art. 1753. - 2. Choice by the parties.

(1) Where a debtor owes several debts to the same creditor, he may specify the appropriation of any payment made by him.

(2) Where the debtor does not specify the appropriation of a payment, such payment shall be appropriated to the debt specified by the creditor in the receipt unless the debtor forthwith objects to such appropriation.


(1) Where no appropriation is specified in the receipt, the payment shall be appropriated to the debt which is due, or, where no debt is due, to the debt which shall first become due.

(2) As between debts due or debts which shall become due on the same day, the payment shall be appropriated to the debt which it was to the greatest advantage to the debtor to pay.

(3) Where the advantages to the debtor are equal, the payment shall be appropriated proportionately.

Art. 1755. - Place of payment.

(1) Payment shall be made at the agreed place.

(2) Where no place is fixed in the contract, payment shall be made at the place where the debtor had his normal residence at the time when the contract was made.

(3) Unless otherwise agreed, payment in respect of a definite thing shall be made at the place where such thing was at the time when the contract was made.

Art. 1756. - Time of payment.

(1) Payment shall be made at the agreed time.

(2) Where no time is fixed in the contract, payment may be made forthwith.

(3) Payment shall be made whenever a party requires the other party to perform his obligations.

Art. 1757. - Simultaneous performance.

(1) Only a party who benefits by a time-limit having regard to the terms or nature of the contract or who has performed or offered to perform his obligations may require the other party to carry out his obligations under the contract.

(2) A party may refuse to carry out his obligations under the contract where the other party clearly shows that he will not perform his obligations or where the insolvency of the other party has been established by the court.

Art. 1758. - Transfer of risks.

(1) The debtor bound to deliver a thing shall bear the risks of loss of or damage to such thing until delivery is made in accordance with the contract.

(2) The risks shall pass to the creditor where he is in default for not taking over the thing.

Art. 1759. - Limit of right to refuse performance.

Notwithstanding the provisions of Art. 1757 (2), a party shall carry out his obligations under the contract where the other party produces securities sufficient to guarantee that he will perform his obligations at the agreed time.
Art. 1760. - Costs of payment.

Unless otherwise agreed, the debtor shall meet the costs of payment.

Art. 1761. - Receipt.

(1) The debtor may on payment demand a receipt and, where the debt is fully discharged, the delivery or cancellation of the document supporting the debt.

(2) In cases of part payment or where the creditor has additional rights supported by the same document, the debtor may only demand a receipt and that the payment be mentioned on the said document.

Art. 1762. - Loss of document supporting the debt.

Where the creditor alleges that he has lost the document supporting the debt, the debtor may demand the delivery of an attestation to the effect that the document supporting the debt is cancelled and the debt extinguished.

Section 3. Variation of contracts

Art. 1763. - Power of the Court.

The court may not vary a contract or alter its terms on the ground of equity except in such cases as are expressly provided by law.

Art. 1764. - Modification of the balance of a contract.

(1) A contract shall remain in force notwithstanding that the conditions of its performance have changed and the obligations assumed by a party have become more onerous than he foresaw.

(2) The effect of such changes may be regulated by the parties, and not by the court, in the original contract or in a new agreement.

Art. 1765. - Arbitration by third party.

When making the contract or thereafter, the parties may agree to refer to on arbitrator any decision relating to variations which ought to be made in the contract, should certain circumstances occur which would modify the economic basis of the contract.

Art. 1766. - Special relationship between the parties.

The court may vary a contract where the parties do not agree and a family or other relationship giving rise to special confidence exists between the parties and compels them to deal with each other in accordance with equity.

Art. 1767. - Contracts with a public administration.

(1) The court may vary a contract made with a public administration where the circumstances in which it was made have changed through an official decision in consequence of which the obligations assumed by the party who contracted with the administration have become more onerous or impossible.

(2) The provisions of the Title of this Code relating to "Administrative contracts" shall apply to contracts made with a public administration(Art. 3191-3193).

Art. 1768. - Partial impossibility of performance.

The court may reduce the obligations of one party where the performance by the other party of his obligations has
become partially impossible and there is no ground for cancelling the contract.

Art. 1769. - Balance of the contract.

In making its decision under Art. 1767 and 1768, the court shall ensure that the balance of the contract be preserved.

Art. 1770. - Period of grace.

(1) The court may, with all necessary care, grant a period of grace for the debtor to carry out his obligations under the contract, having regard to the position of the debtor and the requirements of justice.

(2) The period of grace shall not exceed six months.

(3) The parties may provide that no period of grace shall be granted.

Section 4. Non-performance of contracts


(1) Where a party does not carry out his obligations under the contract, the other party may, according to the circumstances of the case, require the enforcement of the contract or the cancellation of the contract or in certain cases may himself cancel the contract.

(2) He may in addition require that the damage caused to him by non performance be made good.

Art. 1772. - Notice necessary.

A party may only invoke non-performance of the contract by the other party after having placed the other party in default by requiring him by notice to carry out his obligations under the contract.

Art. 1773. - Form and time of notice.

(1) Notice shall be by written demand or by any other act denoting the creditors intention to obtain performance of the contract.

(2) Notice may not be given unless the obligation is due.

Art. 1774. - Time for performance.

(1) The creditor may in the notice fix a period of time after the expiry of which he will not accept performance of the contract.

(2) Such period shall be reasonable having regard to the nature and circumstances of the case.

Art. 1775. - Notice when unnecessary.

Notice need not be given where:

(a) the obligation is to refrain from certain acts; or

(b) the debtor assumed to perform an obligation which the contract allows to be performed only within a fixed period of time and such period has expired; or

(c) the debtor has declared in writing that he would not perform his obligations; or

(d) it is agreed in the contract that notice shall not be required and the debtor shall be in default upon the expiry of the time fixed.
Art. 1776. - Specific performance.

Specific performance of a contract shall not be ordered unless it is of special interest to the party requiring; it and the contract can be enforced without affecting the personal liberty of the debtor.

Art. 1777. - Obligation to do or not to do.

(1) The creditor may be authorised to do or to cause to be done at the debtor's expense the acts which the debtor assumed to do.

(2) The creditor may be authorised to destroy or to cause to be destroyed at the debtor's expense the things done in violation of the debtor's obligation to refrain from doing such things.

Art. 1778. - Fungible things.

Where fungible things are due the creditor may be authorised by the court to buy at the debtor's expense the things which the debtor assumed to deliver.

Art. 1779. - Creditor refusing to accept the thing.

Where the creditor refuses without good cause to accept the thing offered to him, the debtor may deposit the thing at the risk and expense of the creditor in a public warehouse or deposit bank or in any other place named by the court of the place where payment is to be made.

Art. 1780. - Delivery of the thing not possible.

The provisions of Art. 1779 shall apply and notice under Art. 1772 shall not be required where the creditor is not known or there is a doubt as to who is the creditor or the debtor cannot deliver the thing for a reason within the control of the creditor.

Art. 1781. - Sale of the thing.

(1) Where the thing is of a perishable nature or the costs of its depositor custody are disproportionate to its value, the debtor may be authorised by the court to sell the thing by public auction.

(2) Where the thing is quoted on the Stock Exchange or has a current price or the costs of the sale by public auction are disproportionate to its value, the debtor may be authorised by the court to sell the thing by private agreement.

(3) The proceeds of the sale shall in such a case be deposited with a public deposit bank.

Art. 1782. - Validity of deposit.

The debtor shall be released where the court finds that the thing or the proceeds of its sale have been validly deposited.

Art. 1783. - Withdrawal of deposit.

(1) The debtor may withdraw the thing or money deposited until the deposit has been accepted by the creditor, notwithstanding that the deposit has been found valid by the court.

(2) The claim shall revive upon withdrawal of the deposit.

(3) The securities attaching to the claim shall not revive where the deposit has been found valid by the court.

Art. 1784. - Cancellation of contract by the Court.

A party may move the court to cancel the contract where the other party has not or not fully and adequately performed his obligations within the agreed period of time.
Art. 1785. - Good faith.

(1) In making its decision, the court shall have regard to the interests of the parties and the requirements of good faith.

(2) A contract shall not be cancelled except in cases of breach of a fundamental provision of the contract.

(3) No contract shall be cancelled unless its essence is affected by non-performance and it is reasonable to hold for such reason that the party requiring cancellation of the contract would not have entered into the contract without the term which the other party has failed to execute being included.

Art. 1786. - Cancellation by a party. - 1. Under the contract.

A party may cancel the contract where a provision to this effect has been made in the contract and the conditions for enforcing such provision are present.

Art. 1787. - 2. Expiry of time, limit.

A party may cancel the contract where the other party has failed to perform his obligations within the period of time fixed in accordance with Art. 1770, 1774 or 1775 (b).


A party may cancel the contract even before the obligation of the other party is due where the performance by the other party of his obligations has become impossible or is hindered so that the essence of the contract is affected.


(1) A party may cancel the contract where the other party informs him in an unequivocal manner that he will not carry out his obligations under the contract.

(2) The party who intends to cancel the contract shall place the other party in default and the contract shall not be cancelled where the party in default produces within fifteen days securities sufficient to guarantee that he will perform his obligations at the agreed time.

(3) Notice shall not be required and the contract may be cancelled forthwith where a party informs the other party in writing that he will not perform his obligations.

Art. 1790. - Damage arising out of non-performance.

(1) Apart from or in addition to the enforcement or cancellation of the contract, a party may require that the damage caused to him by the other party failing to perform his obligations be made good.

(2) Without prejudice to the provisions of the following articles, the provisions of the Chapter of this Code relating to "Extra-contractual Liability" shall apply where the damage is made good under sub-art. (1) (Art. 2090-2123).

Art. 1791 - Damage when to be made good

(1) The party who fails to perform his obligations shall be liable to pay damages notwithstanding that he is not at fault.

(2) He shall not be released unless he can show that performance was prevented by force majeure.

Art. 1792. - Force majeure.

(1) Force majeure results from an occurrence which the debtor could normally not foresee and which prevents him absolutely from performing his obligations.
(2) Force majeure shall not exist where the occurrence could normally have been foreseen by the debtor or where it renders more onerous the performance by the debtor of his obligations.

Art. 1793. - Cases of force majeure.

The following occurrences may, according to the circumstances, constitute cases of force majeure:

(a) the unforeseeable act of a third party for whom the debtor is not responsible; or

(b) an official prohibition preventing the performance of the contract; or

(c) a natural catastrophe such as an earthquake, lightning or floods; or

(d) international or civil war; or

(e) the death or a serious accident or unexpected serious illness of the debtor.

Art. 1794. - Absence of force majeure.

Unless otherwise expressly agreed, the following occurrences shall not be deemed to be cases of force majeure:

(a) a strike or look-out taking place in the undertaking of a party or affecting the branch of business in which he carries out his activities; or

(b) an increase or reduction in the price of raw materials necessary for the performance of the contract; or

(c) the enactment of new legislation where by the obligations of the debtor become more onerous.

Art. 1795. - Proof of fault.

A party may not claim damages on the ground of non-performance of the contract by the other party, unless he can show that the other party is at fault, where:

(a) the debtor has undertaken to do his best to procure something to the other party without guaranteeing that he would succeed; or

(b) such an exception is expressly provided by law in respect of certain contracts.

Art. 1796. - Grave fault.

Where the contract is made for the exclusive advantage of one party, the other party shall not be liable to pay damages in cases of non-performance unless he has committed a grave fault.

Art. 1797. - Notice, to other party.

(1) The debtor shall forthwith inform the other party of the reason which prevents him from performing his obligations.

(2) He shall be liable as though non-performance were attributable to him for any damage caused to the other party which could have been avoided, had notice been given.

Art. 1798. - Party in default.

Where performance is prevented by force majeure, damages shall be due where force majeure occurred after the debtor had been placed in default.

Art. 1799. - Normal amount of damages.
(1) Damages shall be equal to the damage which non-performance would normally have caused to the creditor in the eyes of a reasonable person.

(2) The nature of the contract, the profession of and the relations between the parties and any circumstances known to the debtor which surrounded the making of the contract shall be taken into consideration in assessing the amount of damages.

Art. 1800. - Lesser damage.

Where the debtor can show that the amount of damages assessed in accordance with Art. 1799 is greater than the damage caused to the creditor, he shall be liable to the extent of the damage actually caused.

Art. 1801. - Greater damage.

(1) The amount of damages shall be equal to the damage actually caused to the creditor where the debtor on entering into the contract was informed by the creditor of the special circumstances owing to which the damage is greater.

(2) The provisions of sub-art. (1) shall apply where non-performance is due to the debtor's intention to cause damage or to his gross negligence or grave fault.

Art. 1802. - Duty to limit the extent of the damage.

(1) The party who invokes non-performance shall take all reasonable measures not involving inconvenience or heavy expenses to limit the extent of the damage caused.

(2) Where he fails to take such measures, the other party may invoke such failure to require that the amount of damages be reduced.

Art. 1803. - Money debts. - 1. Interest for default.

(1) Where the debtor owes a money debt and he is in default, he shall pay interest for default at the rate fixed by law (Art. 1751) notwithstanding that the contract fixes a lower rate in respect of interest be paid before the debt is due.

(2) Where a higher rate of interest is fixed in the contract, such interest shall be due in lieu of interest under sub-art. (1).

(3) Interest shall be due notwithstanding that no loss is incurred by the creditor.

Art. 1804. - 2. Interest on interest.

(1) Where the debtor fails to make periodical payments which constitute an income for the creditor, such as rents, arrears of life or perpetual annuities or interest on capital, interest for default shall be due from the day on which proceedings for recovery are instituted where the debtor is one year in arrears.

(2) Nothing in this Article shall affect the provisions relating to current accounts.


Where the damage caused to the creditor exceeds the interest for default, such damage shall be fully made good by the debtor where he knew of the circumstances on entering into the contract or where non-performance is due to the debtor's intention to cause damage or to his gross negligence or grave fault.

Chapter 3. Extinction of obligations

Art. 1806. - Obligation performed.

An obligation shall be extinguished where it is performed in accordance with the contract.
Art. 1807. - Other causes of extinction.

An obligation shall be extinguished where:

(a) the contract in which it is provided is invalidated or cancelled; or

(b) the parties or one of them enforce a provision made in the contract for the termination of the contract; or

(c) the parties agree to substitute a new obligation for the original obligation; or

(d) the debtor's obligation is set off by an obligation owing from the creditor to the debtor; or

(e) the position of creditor and debtor are merged in the same person; or

(f) performance of the contract has not been demanded within a fixed period.

Section 1. Invalidation and cancellation of contracts

Art. 1808. - Who may require invalidation.

(1) A contract which is affected by a defect in the consent or by the incapacity of one party may only be invalidated at the request of that party.

(2) A contract whose object is unlawful or immoral or a contract not made in the prescribed form may be invalidated at the request of any contracting party or interested third party.

Art. 1809. - Party may refuse performance.

A party who is entitled to require the invalidation of the contract may at any time refuse to perform it.

Art. 1810. - Action for invalidation.

(1) No contract shall be invalidated unless an action to this effect is brought within two years from the ground for invalidation having disappeared.

(2) Where a contract is unconscionable and the party injured was of age, the action shall be brought within two years from the making of the contract.

Art. 1811. - Confirmation of contract.

(1) The party whose consent was vitiated may waive his right to require the invalidation of the contract where the cause which vitiated his consent has disappeared.

(2) Where the contract was made in a special form, waiving as mentioned in sub-art. (1) shall be made in the same form.

Art. 1812. - Putting an end to action.

Where a party requires the invalidation of an unconscionable contract, the other party may put an end to the action by offering to make good the injury.

Art. 1813 - Partial invalidation.

Where part only of the contract is vitiated, only that part shall be invalidated unless such invalidation affects the essence of the contract.
Art. 1814. - Duty to opt.

(1) The party who is entitled to require the invalidation of the contractor to cancel the contract shall, where he is so asked by the other party, without delay answer whether he intends to confirm or to cancel the contract.

(2) Notwithstanding any proof to the contrary, the contract shall be deemed to be cancelled where answer is not given in due time.

Art. 1815. - Effect of invalidation or cancellation.

(1) Where a contract is invalidated or cancelled, the parties shall as far as possible be reinstated in the position which would have existed, had the contract not been made.

(2) Acts done in performance of the contract shall be of no effect.

Art. 1816. - Rights of third parties.

Acts done in performance of the contract shall not be invalidated where the interest of third parties in good faith so requires.

Art. 1817. - Restoring previous position not possible.

(1) Acts done in performance of the contract shall not be invalidated where such invalidation is not possible or would involve serious disadvantages or inconveniences.

(2) The parties shall as far as possible be reinstated in the position which would have existed, had the contract not been made, by the payment of damages or any other remedy which the court thinks fit.

Art. 1818. - Expenses.

Where a party who is to restore a thing following invalidation or cancellation of the contract has altered such thing or incurred expenses in relation thereto, the provisions of the Chapter of this Code relating to "Unlawful Enrichment" (Art. 2168-2178) shall apply in settling the rights or obligations arising out of such alterations or expenses.

Section 2. Termination of contracts and remission of debt

Art. 1819. - Consent of the parties.

(1) A contract may terminate where the parties so agree.

(2) A contract which is terminated shall no longer be performed.

(3) Termination shall have no retrospective effect.

Art. 1820. - Termination by one party.

(1) Provisions may be made in the contract to the effect that the parties or one of them may terminate the contract on notice.

(2) Where more than two persons enter into a contract, provisions may be made to the effect that the contract shall terminate with regard to one of them and remain in force with regard to the other parties.

Contracts for an undefined period of time

Where a contract is made for an undefined period of time, both parties may terminate it on notice.

Art. 1822. - Period of notice.
(1) The party who terminates a contract shall comply with legal or customary periods of notice.

(2) Where the period of notice is not fixed by the law or by custom, it shall be reasonable having regard to the circumstances.

Art. 1823. - Special relations between the parties.

A party may apply to the court to order the termination of a contract which requires a special confidence, cooperation or community of views between the parties, where such requirements are no longer present.

Art. 1824. - Gratuitous contracts.

The court may order the termination of a contract made for the exclusive advantage of one party where the other party for good cause so requires.

Art. 1825. - Remission of debt.

Where the creditor informs the debtor that he regards him as released, the obligation shall be extinguished unless the debtor forthwith informs the creditor that he refuses his debt to be remitted.

Section 3. Novation

Art. 1826. - Principle.

An obligation shall be extinguished where the parties agree to substitute therefor a new obligation which differs from the original one on account of its object or nature.

Art. 1827. - Effect of novation.

(1) Unless otherwise expressly provided, securities or privileges attaching to the original obligation shall not be transferred to the new obligation.

(2) Unless otherwise expressly provided, interest due prior to novation may not be recovered thereafter.

Art. 1828. - Intention to extinguish original obligation.

Novation shall not occur unless the parties show the unequivocal intention to extinguish the original obligation.

Art. 1829. - Absence of novation.

Unless otherwise agreed, novation shall not occur where:

(a) a new document is prepared to support an existing debt; or

(b) the debtor signs a promissory note or bill of exchange in respect of an existing debt; or

(c) new securities are provided to ensure payment of an existing debt.

Art. 1830. - Current account.

(1) Novation shall not result from the entry of credit or debit items in a current account.

(2) Novation shall occur where the balance of an account is finalised and admitted.

(3) Unless otherwise agreed, the creditor shall retain such securities as may attach to one of the items entered in a current account notwithstanding that the balance of the account has been finalised and admitted.
Section 4. Set-off

Art. 1831. - Principle.
Where two persons owe debts to one another, set-off shall occur and the obligations of both persons shall be extinguished in accordance with the provisions of the following Articles.

Art. 1832. - Positive conditions.
Set-off shall not occur unless both debts are money debts or relate to a certain quantity of fungible things of the same species and both debts are liquidated and due.

Art. 1833. - Negative conditions.
Set-off shall occur regardless of the cause of either obligation except where:

(a) the special nature of the obligation requires that the creditor be actually paid, as in the case of maintenance or wages necessary for the livelihood of the creditor and his family; or

(b) the obligation is owing to the State or municipalities; or

(c) the obligation is to restore a thing of which the owner has been unjustly deprived; or

(d) the obligation is to return a thing deposited.

Art. 1834. - Period of grace.
The granting of a period of grace shall be no bar to a set-off.

Art. 1835. - Appropriation of payments.
Where several debts liable to set-off are owing from the same person, the set-off shall be made in accordance with the provisions of Chapter 2 of this Title relating to appropriation of payments (Art. 1752-1754).

Art. 1836. - Effect of set-off.
The debts shall extinguish each other as from the day when they both exist and to the extent of the amount of the lesser debt.

Art. 1837. - Rights of third parties.
Set-off shall not affect the rights which a third party may have in respect of one of the debts.

Art. 1838. - Intention to set-off.
(1) Set-off shall not occur unless the debtor informs the creditor that he intends to make a set-off.

(2) The court shall not have regard to set-off unless raised.

Art. 1839. - Waiving of right to set-off.
The debtor may in advance waive his right to make a set-off.

Art. 1840. - Contractual set-off.
(1) Set-off may occur in cases not provided by law where the parties agree.
(2) The parties may in advance specify the conditions of a set-off.

Art. 1841. - Set-off by the court.

(1) Where one of the debts is not liquidated, the court may hold that a set-off has been made to the extent of such amount of the debt as is admitted.

(2) Where one of the debts is not liquidated but can be liquidated without delay, the court may suspend judgment against the debtor whose debt is liquidated until the other debt is liquidated.

Section 5. Merger

Art. 1842. - Principle.

Merger shall occur and the obligation shall be extinguished where the positions of creditor and debtor are merged in the same person.

Art. 1843. - Rights of third parties.

Merger shall not affect the rights which a third party may have in respect of the obligation.

Art. 1844. - End of merger.

The obligation shall revive where merger comes to an end.

Section 6. Limitation of actions

Art. 1845. - Period of limitation.

Unless otherwise provided by law, actions for the performance of a contract, actions based on the non-performance of a contract and actions for the invalidation of a contract shall be barred if not brought within ten years.

Art. 1846. - Beginning of period.

The period of limitation shall run from the day when the obligation is due or the rights under the contract could be exercised.

Art. 1847. - Annuities.

In respect of annuities, the period of limitation shall run from the day when the first payment not made was due.

Art. 1848. - Calculation of period.

(1) The period of limitation shall not include the day from which such period begins to run.

(2) The action shall be barred where the last day of the period of limitation has expired without having been used.

(3) Where the last day of the period of limitation is a holiday at the place of payment, the action shall be barred on the next working day.

Art. 1849. - Collateral claims.

Interest and collateral claims shall be barred where the principal claim is barred.

Art. 1850. - Pledge.

A creditor whose claim is secured by a pledge may exercise the rights arising out of the pledge notwithstanding that the claim is barred.
Art 1851 - Interruption.

The period of limitation shall be interrupted where:

(a) the debtor admits the claim, in particular by paying interest or instalments or by producing a pledge or guarantees; or
(b) the creditor brings an action for the debtor to discharge his obligations.

Art. 1852. - Effect of interruption.

(1) A new period of limitation shall begin to run upon each interruption.

(2) Such period shall be of ten years where the debt has been admitted in writing or established by a judgment.

Art. 1853. Special relations between the parties.

(1) The court may set aside a plea based on limitation where it is of opinion that the creditor failed to exercise his rights in due time on account of the obedience he owed to or fear he felt of the debtor to whom he is bound by family relationship or subordination.

(2) In such a case, third parties who guaranteed the payment of the debt shall however be released.

Art. 1854. - Bad faith.

A party may plead limitation notwithstanding that he is in bad faith.

Art. 1855. - Contrary provisions.

The parties may not in advance waive limitation nor may they fix periods of limitation other than those fixed by law.

Art. 1856. - Waiving of limitation.

(1) A party may waive limitation after it has become effective.

(2) The court shall not have regard to limitation unless pleaded.

Chapter 4. Special terms of obligations or contracts

Section 1. Provisions as to time

Art. 1857. - Calculation of period of time.

Where an obligation is to be discharged or another act of a legal nature is to be performed after a certain period of time from the date of the contract or any other date, such period shall be reckoned in accordance with the provisions of the following Articles.

Art. 1858. - Period fixed in days.

Where the period is fixed in days, the debt shall be due on the last day of such period, the day of the making of the contract not being included.

Art. 1859. - Period fixed in weeks.

Where the period is fixed in weeks, the debt shall be due on such day of the last week as corresponds by its name to the day of the making of the contract.

Art. 1860. Period fixed in months.
(1) Where the period is fixed in months or so as to include several months, the debt shall be due on such day of the last month as corresponds by its number to the day of the making of the contract.

(2) Where the period is fixed in accordance with the Gregorian Calendar and no day in the last month corresponds to the day of the making of the contract, the debt shall be due on the last day of the last month.

(3) The thirteenth month of the Ethiopian Calendar shall not be taken into account.

Art. 1861. - Monthly periods.

(1) Where the period expires at the beginning or at the end of a month, such period shall expire on the first or on the last day of such month.

(2) Where the period expires in the middle of a month, such period shall expire on the fifteenth of such month.

Art. 1862. - Holidays.

Where the period expires on a day which is a holiday at the place of payment, such period shall expire on the next working day.

Art. 1863. - Lapse of time.

(1) Where an obligation is to be discharged within a specified period of time, the debtor shall discharge his obligations before the expiry of such period.

(2) He shall fix the exact date on which he shall discharge his obligations unless the circumstances are such as to show that the said date is to be fixed by the creditor.

Art. 1864. - Period extended.

Where the period is extended, the new period shall, unless otherwise agreed, begin to run from the day following the day on which the first period expired.

Art. 1865. - Benefit of period of time.

The period of time shall be deemed to be fixed for the benefit of the debtor unless the contract or the circumstances show that it is also fixed for the benefit of the creditor.

Art. 1866. - Waiving of benefit of time.

(1) The debtor may discharge his obligations before the expiry of the agreed period of time unless the contrary intention of the parties can be inferred from the terms or nature of the contract or from the circumstances.

(2) Payments made before the expiry of the agreed period of time may not be recovered.

Art. 1867. - Rights of creditor.

(1) The creditor may not demand performance before the expiry of the agreed period of time unless such period was fixed for his exclusive benefit.

(2) Where the period is fixed for the exclusive benefit of the creditor, he shall, where necessary, grant a reasonable period of time for the debtor to discharge his obligations.

Art. 1868. - Loss of benefit of time.
The debtor whose insolvency has been established or who has reduced the value of the securities given by him to the creditor shall lose the benefit of the agreed period of time.

Section 2. Condition

Art. 1869. - Principle.

A contract shall be deemed to be conditional where it relates to an obligation whose existence depends on the occurrence or non-occurrence of an uncertain event.

Art. 1870. - Good faith.

A party may regard a condition as fulfilled where the other party has prevented its fulfilment in a manner contrary to good faith.

Art. 1871. - Condition precedent.

Unless otherwise agreed, the contract shall be effective, as from the day when the condition is fulfilled.

Art. 1872. - Condition subsequent.

(1) A contract whose cancellation depends on the occurrence of an uncertain event shall be effective forthwith.

(2) It shall cease to be effective where the event occurs.

Art. 1873. - Non-interference.

The parties shall refrain from doing any act likely to prevent the regular performance of the contract upon the fulfilment of the condition.


Acts of management done prior to the fulfilment of the condition by the party who exercises the right shall remain valid where the condition is fulfilled. Damages may be claimed where such acts were done in bad faith.

Art. 1875. - Acts beyond management.

(1) Acts beyond management done by the party who exercises the right may be invalidated where the other party so requires.

(2) Any interested party may require the other party to state within a reasonable period of time whether he will require the acts beyond management to be invalidated.

(3) The effects of invalidation shall be as provided by Art. 1808-1818.

Art. 1876. - Fruits and profits.

The party who exercises the right prior to the fulfilment of the condition shall, where the condition is fulfilled, retain the fruits and profits he received in good faith prior to the fulfilment of the condition.

Art. 1877. - Protective measures.

A party whose conditional rights are imperilled may take such protective measures as he could take, were his rights not conditional.

Art. 1878. - Impossible, unlawful or immoral condition.
The provisions relating to the impossible, unlawful or immoral object of a contract (Art. 1715 and 1716) shall apply where the condition on which a contract depends is impossible, unlawful or immoral.

Art. 1879. - Condition depending on a party

(1) An obligation assumed subject to a condition the fulfilment of which depends solely on the party who assumes the obligation shall be of no effect.

(2) An obligation shall be deemed to be assumed under sub-art. (1) where the promisor's liability for non-performance of the contract is excluded in the contract.

Section 3. Alternative obligations

Art. 1880. - Principle.

A debtor who is to discharge alternative obligations shall be released where he discharges either of the duties provided in the contract.

Art. 1881. - Rights of debtor.

(1) The debtor may choose which duty he will discharge unless such right is expressly conferred on the creditor or a third party.

(2) Where the party entitled to choose does not exercise his right on being required to do so, such right shall pass to the other party.

Art. 1882. - Performance impossible.

(1) Where the discharge of one of the duties is or becomes impossible, the debtor shall discharge the other duty.

(2) Damages shall be due where such impossibility is due to the fault of a party who was not entitled to choose the duty to be discharged.

Section 4. Earnest

Art. 1883. - Effect of earnest.

The giving of earnest shall be proof of the making of the contract.

Art. 1884. - Performance of contract.

Unless otherwise agreed, the party who has received earnest shall return it or deduct it from his claim where the contract is performed.


(1) Unless otherwise agreed, the party who has given earnest may cancel the contract subject to forfeiture of the earnest given by him.

(2) Unless otherwise agreed, the party who has received earnest may cancel the contract subject to repayment of double of the amount received by him.

Section 5. Provisions as to liability

Art. 1886. - Extension of liability.

The parties may extend their liability under the contract and provide that they will be liable for non-performance notwithstanding that performance is prevented by force majeure.
Art. 1887. - Limitation of liability.

The parties may limit their liability under the contract and provide that they will not be liable unless they commit a fault.


(1) The parties may provide that they will not be liable where non-performance is caused by a fault of their employees or auxiliaries.

(2) Any such provision shall be of no effect where it is made to the prejudice of a party who is the employee of the other party.

Art. 1889. - Penalty.

The parties may fix the amount of damages which will be due, should a party fail to discharge his obligations or to discharge them completely and in due time.

Art. 1890. - Rights of creditor.

(1) Unless otherwise agreed, the creditor may require the performance of a contract which includes a penalty.

(2) He may not require both the enforcement of the contract and the penalty unless the penalty was provided in respect of delay or the non-performance of a collateral obligation.

Art. 1891. - Conditions of application.

The penalty shall be due whenever the creditor is entitled to claim damages by reason of non-performance of the contract.

Art. 1892. - Actual damage.

(1) The penalty shall be due notwithstanding that no actual damage was caused to the creditor.

(2) Damages may not be claimed above the amount of the penalty unless non-performance is due to the debtor’s intention to cause damage or to his gross negligence or grave fault.

Art. 1893. - Variation of penalty.

The agreed amount of the penalty due for non-performance may not be reduced by the court unless partial performance has taken place.

Art. 1894. - Invalidation.

(1) A penalty shall be of no effect where the contract in which it is prescribed is invalidated.

(2) A contract shall remain in force notwithstanding that the penalty is not valid.

Art. 1895. - Contractual sanctions.

Where a contract provides that a party may apply certain sanctions, should the other party fail to carry out one of his duties, the court shall, notwithstanding any provision to the contrary, verify whether the agreed sanctions may be applied.

Chapter 5. Plurality of debtors or creditors

Section 1. Debtors jointly and severally liable

Art. 1896. - Cases of joint and several liability.
Unless otherwise agreed or provided by law, co-debtors shall be jointly and severally liable.

**Art. 1897. - Principle of joint und several liability.**

(1) The creditor may require all the debtors or one of them to discharge the obligation in whole or in part.

(2) Each debtor shall be liable until the obligation is fully discharged.

**Art. 1898. - Res judicata.**

Proceedings instituted against one of the debtors shall be no bar to similar proceedings being instituted against the other debtors.

**Art. 1899. - Notice.**

Notice placing one debtor in default shall be effective against all the debtors.

**Art. 1900. - Nullity of obligation.**

(1) Any debtor may set up against the creditor defences based on the nullity of the obligation.

(2) Where the obligation is null owing to a defect in the consent or to the incapacity of the debtor, such nullity may be raised by that debtor only.

**Art. 1901. - Payment and limitation.**

Any debtor may set up against the creditor defences based on the total or partial payment of the debt or on limitation.

**Art. 1902. - Remission of debt.**

(1) Where the debt is remitted to one debtor, all co-debtors shall be released.

(2) Notwithstanding the provisions of sub-art. (1), the creditor may specify that the debt is remitted for the exclusive advantage of one debtor.

(3) A remission under sub-art. (2) shall not release the co-debtors unless the debt ultimately rests with the debtor for whose advantage the remission was made.

**Art. 1903. - Novation.**

(1) The provisions of Art. 1902 shall apply where the creditor agrees with one debtor to substitute a new debt for an existing debt.

(2) The creditor may specify that novation shall only apply to the share of that debtor.

**Art. 1904. - Set-off.**

Where the creditor owes a debt to one debtor, the co-debtors shall not be released unless the debt ultimately rests with the debtor with whom the set-off was made.

**Art. 1905. - Merger.**

Where one debtor becomes the creditor, merger shall not release the co-debtors unless the debt would ultimately have rested with the debtor who became the creditor.
Art. 1906. - Liability.

(1) A debtor who is jointly and severally liable may do nothing to increase the liabilities of the co-debtors.

(2) A debtor shall be liable to the co-debtors where he fails to raise defences common to all the co-debtors.

Art. 1907. - Share in the debt.

Unless otherwise agreed or provided by law, each debtor shall share equally in payments made to the creditor.

Art. 1908. - Claims as between co-debtors.

(1) A debtor who pays in excess of his share may claim the amount paid in excess from the co-debtors in proportion to their share.

(2) Any amount which cannot be recovered from one of the debtors shall be repaid by the other debtors in proportion to their share.

Art. 1909. - Substitution.

(1) A debtor who may claim under Art. 1908 shall substitute himself for the creditor to the extent of the amount paid by him to the creditor.

(2) The creditor shall hand to the debtor who makes the payment all documents and make all formalities to enable the debtor to claim from the other debtors.

(3) Where the creditor makes substitution impossible, he shall be liable for the damage caused by him to the debtor.

Section 2. Joint creditors

Art. 1910. - Scope of application.

Unless otherwise agreed or provided by law, joint creditors shall not be jointly and severally entitled to claim payment.

Art. 1911. - Principle.

(1) Each joint creditor may require the debtor to pay the whole debt.

(2) Payment made to one of the creditors shall be effective against all the creditors.

(3) The debtor may, at his option, pay any of the joint creditors until he is informed that proceedings have been instituted by one of them.

Art. 1912. - Limitation.

Any act interrupting the period of limitation as regards one joint creditor shall interrupt it for the benefit of all.

Art. 1913. - Remission of debt.

A remission of debt made by one joint creditor shall release the debtor in respect of the share of that creditor only.

Art. 1914. - Novation.

The provisions of Art. 1913 shall apply to a novation agreed upon between one joint creditor and the debtor.

Art. 1915. - Set-off.
Where the debtor becomes creditor of one joint creditor, he may invoke a get-off against the other co-creditors only to the extent of such creditor's ultimate share in the claim.

Art. 1916. - Ultimate sharing.

(1) Unless otherwise provided by the contract or by law, each joint creditor shall be entitled to an equal share of the debtor's payment.

(2) A creditor receiving more than his share shall account for the excess to the other creditors.

Section 3. Obligations other than joint obligations

Art. 1917. - Indivisibility.

The provisions regarding joint obligations shall apply by analogy to obligations which are indivisible owing to their nature.

Art. 1918. - Plurality of debtors.

(1) Obligations which are neither joint obligations nor indivisible owing to their nature shall be divided between the persons liable for the debt.

(2) Each debtor shall be liable for his lawful share or for such other share in the debt as may be prescribed by the contract or by law.

(3) Nothing in this Article shall affect the case where one debtor has acted as surety and guaranteed payment of the debt by the principal debtor.

Art. 1919. - Plurality of creditors.

(1) Obligations which are neither joint obligations nor indivisible owing to their nature shall be divided between the creditors.

(2) Each creditor may only demand payment of his lawful share or of such other share as may be prescribed by the contract or by law.

Section 4. Suretyship


Whosoever guarantees an obligation shall undertake, towards the creditor to discharge the obligation, should the debtor fail to discharge it.

Art. 1921. - Consent of debtor.

A guarantee may be given without any request from the debtor for whom it is undertaken or without his knowledge.

Art. 1922. - Form.

(1) A guarantee shall not be presumed.

(2) It shall be express and may not be extended beyond its contractual limits.

(3) The contract of guarantee shall be of no effect unless it specifies the maximum amount for which the guarantee is given.

Art. 1923. - Principal obligation void.

(1) A guarantee may not be given except in respect of a valid obligation.
(2) A debt resulting from a contract which, owing to mistake or incapacity, is not binding on the debtor, may validly be guaranteed where the guarantor, on undertaking the guarantee, was aware of the defect pertaining to the debtor which vitiated the contract.

Art. 1924. - Limits of a guarantee.

(1) A guarantee may not exceed the amount owed by the debtor, nor be contracted on more onerous terms.
(2) It may be contracted in respect of part only of the debt and subject to less onerous terms.
(3) A guarantee which exceeds the amount of the debt, or which has been contracted on more onerous terms, is not void but merely reducible to the amount of the primary debt.

Art. 1925. - Future or conditional obligations.

(1) A guarantee may be undertaken in respect of future or conditional obligations.
(2) Where the time during which the guarantor is to be bound has not been stipulated in the instrument creating the guarantee, the guarantor may put an end to his undertaking so long as the primary debt is not yet due.

Art. 1926. - Extinction of primary debt.

(1) The guarantor shall be released when the primary debt is discharged for any reason whatsoever.
(2) The guarantor may set up against the creditor all the defences available to the debtor, and the fact that the principal debtor might have waived them cannot be set up against him.
(3) The fact that the obligation of the principal debtor is null by reason of a defect in the latter's consent or of his incapacity shall not affect the guarantor, where he bound himself with full knowledge of these circumstances.

Art. 1927. - Substituted performance.

The voluntary acceptance by the creditor of an immovable or of any other asset in satisfaction of the primary debt shall discharge the guarantee even though the creditor may subsequently be evicted.

Art. 1928. - Variation of primary debt.

(1) Contracts entered into between the creditor and the principal debtor after the making of the contract of guarantee may not increase the liabilities of the guarantor.
(2) The guarantor shall be released where the creditor, without his being expressly authorised to do so, allows time for payment to the debtor.

Art. 1929. - Limitation.

Proceedings instituted against the principal debtor shall interrupt the period of limitation as regards the guarantor.

Art. 1930. - Interest.

Where the debt guaranteed bears interest, the guarantor shall, unless otherwise agreed, guarantee the payment of the interest within the limits of the maximum amount stated in the instrument of guarantee.

Art. 1931. - Legal costs.

The guarantor shall be liable, even beyond the limits of the maximum amount stated in the instrument of guarantee, for the costs of any actions brought against the principal debtor, provided he received sufficient notice thereof enabling him to forestall them by discharging the debt.
Art. 1932. - Maturity of debt.

(1) The guarantor may not be required to pay prior to the time fixed for the payment of the primary debt notwithstanding that the debt became mature at an earlier date owing to the bankruptcy of the debtor.

(2) Where the primary debt is exigible only after previous notice is given to the debtor, such notice shall also be given to the guarantor.

(3) The period of notice shall run as regards the guarantor from the day he was notified.

Art. 1933. - Joint guarantee.

(1) Where the person undertaking the guarantee described himself as joint guarantor, co-debtor, or used equivalent terms, the creditor may sue him without previously demanding payment from the debtor or realizing his securities.

(2) The relevant provisions of this Chapter shall apply to joint guarantee.

Art. 1934. - Simple guarantee.

(1) Apart from the case mentioned in Art. 1933, a guarantor shall not pay the creditor unless the principal debtor fails to discharge his obligation.

(2) The guarantor may demand that the creditor, before requiring him to pay, should discuss the principal debtor's assets and, in particular, realize the real securities available.

Art. 1935. - Benefit of discussion.

(1) The creditor shall not discuss the principal debtor unless the guarantor so requires as soon as he is first proceeded against.

(2) The guarantor may not claim the benefit of discussion where the insolvency of the debtor has been judicially established.

Art. 1936. - Assets to be discussed.

(1) A guarantor requiring discussion shall indicate the debtor's assets to the creditor and advance sufficient money for the costs of their discussion.

(2) He may not indicate such debtor's properties as are subject to litigation, or situate outside the country of payment, or mortgaged as security for the debt but no longer in the debtor's possession.

Art. 1937. - Failure to proceed.

Where the guarantor has indicated the assets as provided in Art. 1936 and has supplied sufficient money for their discussion, the creditor is answerable to the guarantor, up to the value of the assets thus indicated, for an insolvency of the principal debtor due to the creditor's failure to proceed.

Art. 1938. - Summons to proceed.

(1) Where the primary obligation has fallen due, the guarantor may demand that the creditor sue the principal debtor within six weeks for the enforcement of his rights.

(2) The guarantor shall be released where the creditor fails to comply with this summons or to continue the proceeding with reasonable diligence.
Art. 1939. - Tender of payment.

(1) Where the primary obligation has fallen due, the guarantor may require that the creditor accepts the payment from him.

(2) The guarantor shall be released where the creditor does not accept such payment or refuses to transfer to the guarantor the securities he enjoys.

Art. 1940. - Guarantor's indemnity claim.

(1) The guarantor who has paid shall be indemnified by the principal debtor, whether the guarantee had been given with or without the latter's knowledge.

(2) Such indemnity claim shall apply to the principal, interest and costs incurred.

(3) The guarantor may claim to be refunded with such costs only as he incurred since he notified the principal debtor of the proceedings directed against himself.

Art. 1941. - Damages.

(1) The guarantor may claim damages from the debtor where it was owing to the latter's fault or negligence that the guarantor had to pay the creditor.

(2) The amount of such damages shall be fixed in accordance with the rules laid down in Chapter 2 of this Title (Art. 1790-1805).

Art. 1942. - Lapse of indemnity claim.

(1) The guarantor has the right and the duty to set up against the creditor all the defences available to the principal debtor unless they are excluded by the nature of his guarantee.

(2) The guarantor who fails to set up such defences is debarred from his remedy in so far as they would have relieved him of payment.

(3) The provisions of sub-art. (2) shall not apply where the guarantor can prove that he was in ignorance thereof without his fault.

Art. 1943. - Second payment.

(1) The guarantor shall lose his indemnity claim where the debtor pays a second time because the guarantor failed to inform him of his own payment.

(2) He may claim from the creditor what the latter unduly received from the debtor.

Art. 1944. - Subrogation..

(1) The guarantor shall be subrogated to the rights of the creditor to the extent of his payment to him.

(2) The benefit of such subrogation may not be waived in advance.

Art. 1945. - Duties of creditor.

The creditor shall hand over the documents of title to the guarantor who pays him and perform such formalities as will enable the guarantor to exercise his remedy and realize the securities available to the creditor.

Art. 1946. - Impossibility of subrogation.

The guarantor shall be relieved of his obligation towards the creditor where the guarantor's subrogation to the rights,
mortgages and liens of the creditor can no longer be effected owing to the creditor's act or omission.


(1) Where the debtor becomes bankrupt the creditor shall prove in the bankruptcy.

(2) He shall inform the guarantor of the bankruptcy as soon as he is aware of it.

(3) Where the creditor fails to comply with these rules, he shall lose his rights against the guarantor to the extent of the latter's loss resulting from such failure.

Art. 1948. - Securities due to guarantor.

The guarantor, even before he has paid, may take action against the debtor and demand securities from him where:

(a) the debtor has been given notice to pay his debt;

(b) the debtor has been declared bankrupt;

(c) either by reason of the losses the debtor has suffered or as result of a fault committed by him, the guarantor runs a considerably greater risk than when he undertook the guarantee.

Art. 1949. - Counter-guarantor.

The counter-guarantor guarantees towards the guarantor the effectiveness of his indemnity claim against the principal debtor.


(1) A person may stand surety not only for the principal debtor but also for his guarantor.

(2) The secondary guarantor shall be in the same position towards the guarantor as a simple guarantor is towards the principal debtor.

(3) Merger between the principal debtor and the guarantor shall not extinguish the creditor's right of action against the secondary guarantor.

Art. 1951. - Plurality of guarantors.

(1) Where several persons became at the same time guarantors of the same debtor in respect of the same debt, each of them shall be liable as simple guarantor for his share and as secondary guarantor for the shares of the others.

(2) Where the guarantors entered into their undertakings by successive acts, he who bound himself in the second place shall be held liable as secondary guarantor of the guarantor who bound himself before him.

(3) Where the guarantors expressly bound themselves as joint guarantors either with the principal debtor or as between themselves, each of them shall be answerable for the whole debt, subject to contribution from the others proportionate to their shares.

Chapter 6. Third Parties in Relation to Contract


(1) Except in the cases provided in this Code, contract shall produce effects only as between the contracting parties.

(2) Nothing in this Article shall affect the provisions relating to extra-contractual liability (Art. 2056)
(3) Nothing in this Article shall affect the provisions relating to agency (Art. 2179-2265).

Section 1. Promises and Stipulations Concerning Third Parties

Art. 1953. - Option to substitute third party.

At the time of the making of a contract, a party may reserve the option to substitute for himself another person assuming the rights and obligations under the contract.

Art. 1954. - Effect.

(1) Where the appointment thus provided is made within the following three days, the contract shall be effective as if it had been entered into by representation.

(2) Where the appointment is not made within three days, the contract shall be effective as between the parties who made it.

Art. 1955. - Promise for third party.

A person may stand promisor for a third party by promising an act or omission by the said third party.

Art. 1956. - Effect.

(1) Where the third party ratifies the promise concerning him, the person who stood promisor shall be released.

(2) Unless otherwise agreed, such person shall not guarantee the proper performance of the contract.

(3) Where the third party does not ratify the contract, the person who stood promisor for him shall be liable towards the other contracting party for the damage resulting from the non-performance of the contract.

Art. 1957. - Stipulation for benefit of third party.

Parties to a contract may stipulate that one of them shall perform an obligation for the benefit of a third party.


(1) Unless otherwise agreed, he who stipulates for the benefit of another may reserve for himself the benefit of the contract or appoint a new beneficiary under the stipulation, as long as the option has not been offered to the third party mentioned in the contract, or where the said party has refused the benefit of the stipulation.

(2) Where the beneficiary of the stipulation has accepted it, the stipulator shall retain the right to vindicate the rights resulting from the non-performance of the contract where the promisor fails to perform his obligation.

Art. 1959. - Option of beneficiary.

The person for whose benefit the stipulation was made may, when the option is offered to him in accordance with the contract, accept or refuse as he pleases the benefit of the stipulation.


(1) Where the obligation undertaken by the promisor is to be performed upon the death of the stipulator, the person whom the latter appointed as beneficiary of the stipulation shall, where he claims the benefit of the stipulation, acquire his right against the promisor on the day of the beneficiary's death.

(2) The heirs of the stipulator may not revoke the appointment made by him of the beneficiary of the stipulation.

(1) Upon his acceptance, the beneficiary of the stipulation shall irrevocably acquire the rights which the contract confers upon him as against the promisor.

(2) The promisor may set up against him any defences of a purely personal nature which he may have against the stipulator.

Section 2. Assignment of Obligatory Rights and Subrogation

Art. 1962. - Assignment of rights.

A creditor may assign his rights to a third party without the consent of the debtor, unless such assignment is forbidden by law or the contract, or is barred by the very nature of the transaction.

Art. 1963. - Scope of assignment.

Arrears of interest shall be deemed to have been assigned with the principal of the debt.

Art. 1964. - Warranty.

(1) Where the assignment is for consideration, the assignor shall guarantee the existence of the right at the time of the assignment.

(2) He shall not guarantee the solvency of the debtor, unless he expressly accepted such liability.

(3) Where the assignment is gratuitous, the assignor shall not guarantee the existence of the right.

Art. 1965. - Scope of guarantee.

(1) An assignor bound by the guarantee shall be liable to the assignee only to the extent of the amount he received in principal and interest.

(2) He shall in addition be liable for the costs of the assignment and of any unsuccessful proceedings against the debtor.


(1) The debtor may set up against the assignee, as he could have done against the assignor, any defences which were available to him upon his becoming aware, of the assignment.

(2) Where he had a claim against the assignor which was not yet demandable at the time, he may invoke a set-off, provided his claim does not fall due later than the assigned claim does.

Art. 1967. - Opposability of assignment to debtor.

(1) The debtor shall be released where, before the assignment was brought to his knowledge either by the assignor or the assignee, he pays the assignor in good faith.

(2) Where the same claim was assigned to several assignees, regard shall be had to the date on which the assignments have been notified to the debtor or agreed by the latter in a document with an authenticated date.

(3) The debtor shall pay to the assignee who avails himself of the earliest date.

Art. 1968. - Subrogation by creditor.

(1) A creditor who is paid by a third party may subrogate him to his rights.
(2) Subrogation shall be express and effected at the time of payment.

**Art. 1969. - Subrogation by debtor.**

A debtor who borrows money or other fungible things to pay his debt may subrogate the lender to the rights of the creditor, even without the consent of the latter.

**Art. 1970. - Conditions.**

(1) Subrogation by the debtor implies that the instrument evidencing the loan bears an authenticated date and that the use of the sum lent is expressly specified therein.

(2) The receipt for the loan shall bear an authenticated date and include an express statement that the payment was made by means of the borrowed money.

(3) The creditor may not refuse to include this statement in the receipt where the debtor so requires him.

**Art. 1971. - Legal subrogation.**

Subrogation to the rights of the creditor shall take place by virtue of the law, to the extent of the amount paid:

(a) for the benefit of any person who, being bound with others or on behalf of others for the payment of a debt, discharged the debt and is thereby entitled to indemnity or contribution from his co-debtors; and

(b) for the benefit of any person who, being owner of a property or enjoying over it a right of lien, mortgage or pledge, paid a creditor who enjoyed over the same property a right of lien, mortgage or pledge; and

(c) whenever the law so provides.

**Art. 1972. - Partial payment.**

(1) Subrogation may not be made to the detriment of a creditor who has been only partly paid.

(2) The creditor may exercise his rights in respect of the balance still due in priority to the person from whom he received partial payment.

**Art. 1973. - Effect of subrogation or assignment.**

(1) The subrogated creditor or the assignee of a right may exercise the liens, securities and other accessory rights attached to it.

(2) He may not enter into possession of the thing received in pledge by the creditor without the consent of the pledger.

**Art. 1974. - Duties of original creditor.**

(1) He who assigned a right or was paid by a third party shall hand over to the assignee or to the subrogated creditor the document of title relating to the debt and furnish him with any available means of proof, as well as with the necessary information enabling him to vindicate his rights.

(2) In cases of partial assignment or payment, the original creditor shall supply a copy certified by two witnesses of the documents evidencing the claim.

**Art. 1975. - Exceptions.**

(1) Nothing in the preceding Articles shall affect the special rules governing the assignment of certain specified rights.

(2) Nothing shall affect the cases where the claim is embodied in a registered document or an instrument to order or to
Section 3. Delegation, and Assignment of Obligations


A debtor may with the consent of the creditor, or without such consent in cases provided by law or usage, delegate to another the performance of his obligations.


(1) Unless the contrary has been expressly stipulated, the creditor who has agreed to such a delegation shall retain his right against the original debtor.

(2) He may not demand satisfaction from the original debtor before demanding it from the delegate debtor.


Subject to usage, the delegate shall not be bound to accept the delegation notwithstanding that he is the debtor of the person appointing him as delegate.


(1) The delegator may no longer revoke the delegation after the delegate accepted the liability towards the creditor or effected the payment.

(2) The delegate may accept the liability or perform the obligation even after the death of the delegator or after the delegator having become incapable.


(1) The delegate may not set up against the creditor defences deriving either from his personal relationship with the delegator, or from the relationship between the creditor and delegator.

(2) He may set up against the creditor defences deriving from his personal relationship with him.


(1) A creditor who has released the original debtor has no remedy against him where the delegate debtor becomes insolvent, unless the delegation instrument contains an express reservation on this point.

(2) He shall retain his remedy against the original debtor where the insolvency of the delegate had been already judicially recorded at the time of the delegation.


Third parties who have secured the debt upon their property or are guarantors shall not be liable to the creditor unless they consented to the delegation.


(1) He who acquires an estate or an undertaking with assets and liabilities shall be personally liable for the debts to creditors as soon as he notified them of the transfer or published it in the newspapers.

(2) The former debtor shall be jointly liable with the new debtor for a period of two years.

(3) This period shall run, in respect of mature debts, from the day of the notification or publication and, in respect of other
debts, from the date of maturity.


Where two undertakings amalgamate by the mutual transfer of their assets and liabilities, the new undertaking shall be liable for all the debts of each of them.


(1) The provisions of Art. 1984 shall apply where an individual undertaking is converted into a general or limited partnership.

(2) The new partnership shall be liable for the debts of the individual undertaking it absorbed.

Section 4. Heirs of the Parties


The heirs of a person shall be substituted for him in contracts to which he was a party, unless the contrary was stipulated or flows from the nature of the contract.

Art. 1987. - Stipulation for benefit of third party.

A stipulation for the benefit of a third party shall be performed for the benefit of his heirs where he dies after having accepted it but before it was performed.

Section 5. Creditors of the Parties


(1) The performance by the debtor of his obligations shall be secured by all his assets, with the exception of those which cannot be attached at law.

(2) The rules relating to attachment, and in particular to the attachment of claims vested in the debtor, are contained in the Code of Civil Procedure.


(1) Agreements entered into by a person may be set up against his creditors.

(2) Agreements entered into by a person in respect of a certain thing may be set up against third parties who acquire from that person a particular right in respect of such thing, as from the time their date is authenticated or, where the law provides for the publication of such agreements, as from the day of publication.


The provisions of Art. 1989 shall not apply where the law so provides, in particular where a preferential right or lien is conferred upon the creditor by law or contract, or where the debtor has been deprived, by judicial decision, of the management of his properties.


(1) The provisions of Art. 1989 shall not apply in cases of simulation.

(2) Counter-deeds shall bind the contracting parties only.
(3) The creditor of one of the parties may avail himself of such apparent act on the basis of which he contracted.


A creditor may take in the name of the debtor any preservatory step required with a view to preventing the extinction of a right of the debtor.


(1) A creditor may, with the authorisation of the court, exercise as representative of the debtor all the rights of the debtor so as to prevent such impoverishment of the debtor as would jeopardize the payment of the debt.

(2) The authorisation to act shall be refused to the creditor where the right he intends to exercise is, by nature or under the law, inherent in the person of the debtor.

(3) The authorisation shall be refused where the creditor's rights are not imperilled by the inaction of the debtor whose insolvency is not in view.


A creditor may have established, by judicial decision, that a transaction effected by a debtor was a simulated one which, by agreement, was not intended to be carried out.

Art. 1995. - Debtor's fraud.

A creditor may, in his own name, challenge the validity of acts whereby the debtor, in fraud of the creditor's rights, alienated property or entered into obligations.


(1) An act shall be deemed to have been done in fraud of the rights of creditors where it was done by the debtor so as to become insolvent, or with the knowledge that he was thereby increasing his insolvency.

(2) The payment of mature debts may not be challenged by the creditors.


A third party who in prejudiced by the creditor's action may set up his good faith as a defence against such action where the act which is challenged, or a contingent act conferring rights on the third party, was done for consideration.


The creditor's action shall be brought within two years from the date of the act which is challenged.


(1) A debtor's act declared to be fraudulent may not be set up against the creditor who brought the action.

(2) It shall remain valid as between the parties and in regard to other creditors.


The provisions of the preceding Articles shall not affect the rules concerning the exercise by creditors of the debtor's rights or the action of creditors against the debtor's fraudulent acts in the event of the latter's bankruptcy.

Chapter 7. Proof in Relation to Contracts
Section 1. Burden and Admissibility of Proof


(1) He who demands performance of an obligation shall prove its existence.

(2) He who alleges that an obligation is void, has been varied or is extinguished shall prove the facts causing such nullity, variation or extinction.


Proof may be adduced by writings, witnesses, presumptions, a party's admission or oath, in accordance with the rules set out in this Chapter and the forms prescribed in the Code of Civil Procedure.

Art. 2003. - Contracts to be in writing.

Where the law required written form for the completion of a contract, such contract may not be proved by witnesses or presumptions unless it is established that the document evidencing the contract has been destroyed, stolen or lost.


Parties are not allowed to provide in their contracts exceptions to the rules which bar or restrict the admissibility of certain means of evidence.

Section 2. Written Evidence


(1) A written instrument shall be conclusive evidence, as between those who signed it, of the agreement therein contained and of the date it bears.

(2) It shall have the same probatory value for persons represented in the act and the heirs of the parties.

Art. 2006. - Contrary proof.

(1) Statements contained in a written instrument may be challenged by those who signed it only by tendering an oath to the party who avails himself thereof.

(2) No proof by witnesses nor any presumption is admissible against such statements.

Art. 2007. - Disallowance of handwriting.

(1) He against whom a non-authenticated instrument is set up shall, where he intends not to recognize it as his own, formally disclaim his alleged handwriting and signature.

(2) It shall be sufficient for heirs to declare that they do not recognise the writing or signature of their ascendant.


Where a party disclaims his handwriting or signature or his heirs declare that they do not recognize them, their verification shall be ordered by the court.


(1) Third parties may prove by all means the falsity of statements contained in an instrument, unless the instrument was drawn up or received by a public officer.

(2) They may, in particular, prove by all means the falsity of the date on the instrument, unless such date is authenticated.
Art. 2010. - Authentic deed.

(1) Where the instrument was drawn up or received by a duly qualified public officer, third parties may freely challenge such statements only in the instrument as originated from the parties and could not be verified personally by the public officer.

(2) Statements which the public officer personally verified may not be challenged except with the permission of the court.


(1) Copies or photostat copies of original authentic deeds shall have the same probatory value as the originals where they are certified by a duly qualified public officer.

(2) The same rule shall apply to photostat copies of parts of the originals.


Copies of public or private instruments kept in public registers, issued in accordance with regulations by the registrar to whom the instruments are entrusted, shall have the same authentic value as the originals.

Art. 2013. - Collation and photographs.

(1) In the cases provided in the preceding articles, the parties may not require the production to the court of the original instrument, but may require, at their own cost, the collation of the copy produced with the original text or, failing such text, with the copy kept in public registers.

(2) They may, at their own cost, demand a photostat copy of the instrument being collated.

Art. 2014. - Loss of original.

Failing an original text or a copy kept in public registers, copies made in accordance with the preceding articles shall retain their authenticity where on their face appear no erasures, alterations or any other particularity justifying suspicion.

Art. 2015. - Authenticated date.

An instrument shall acquire an authentic date:

(a) where the instrument was drawn up or received by a public officer, at the date of its drawing up or reception; or

(b) where the instrument is referred to in another instrument drawn up or received by a public officer, at the date of the drawing up or reception of the other instrument; or

(c) where one of those who signed the instrument has died or become physically incapable of signing it, at the date of the death or of the occurrence of the incapacity.

Art. 2016. - Trade books.

(1) Entries in trade books are no evidence in favour of those who made the entries.

(2) They are evidence against those who made the entries, but a party wishing to avail himself thereof may not sever them so as to discard entries contrary to his claim.

Art. 2017. - Domestic records and papers.

Domestic records and papers are no evidence in favour of the person who wrote them.
Art. 2018. - Evidence against author

Such records and papers are evidence against the person who wrote them where:

(a) they formally mention a payment; or

(b) they include an express statement that the entry was made to make good the lack of document of title in favour of the person for the benefit of whom they state an obligation.


(1) Where a person promised to make a payment or acknowledged a debt, the person in whose favour the promise was made or the debt acknowledged need not prove a cause justifying them.

(2) The existence of a valid agreement shall be presumed, subject to proof to the contrary.

(3) Where proof of simulation of the cause is adduced, the party alleging that the obligation has another lawful cause shall prove it.

Section 3. Presumptions of Payment


The handing over of the document of title to the debtor shall raise a presumption that the debt has been discharged.


Entries made by the creditor at the end, in the margin or at the back of a document of title, which remained at all times in his possession, shall be conclusive evidence although not signed or dated by him, where they tend to establish the debtor’s release.


(1) In the case of interests or other periodical dues, the creditor who gives a receipt for a given period, without making any reservation, shall be deemed to have collected the dues for the previous periods.

(2) Where the creditor gives a receipt for the principal, the debtor shall be deemed to have paid the interest.


The following debts shall be deemed to have been paid where six months have elapsed since they fell due:

(a) debts in respect of wages owed to clerks, office employees, servants, daily workers and workmen; and

(b) debts due to masters or teachers in respect of lessons given monthly; and

(c) debts due to hotel-keepers, inn-keepers or managers of boarding-houses in respect of lodging and food; and

(d) debts due to merchants in respect of goods and foodstuffs supplied by them to private persons for consumption or common use.

Art. 2024. - Presumption of payment after two years.

The following debts shall be deemed to have been paid where two years have elapsed since they fell due:

(a) debts due to physicians, surgeons, dentists, midwives, pharmacists or veterinary surgeons in respect of professional services or supplies; and
(b) debts due to advocates, notaries or other members of the legal profession in respect of professional services; and

c) debts due to handicraftsmen in respect of work done by them; and

(d) debts due in respect of rents for houses or agricultural estates; and

(e) arrears of periodical dues; and

(f) interest on loans and generally any sum payable annually or at shorter periodical intervals.

Art. 2025. - Contrary proof.

The presumptions laid down in the preceding Articles shall not apply where:

(a) the debtor has acknowledged the debt in writing; or

(b) prior to the expiry of the period prescribed by law, the creditor has instituted proceedings with a view to the debtor paying the debt.

Art. 2026. - Oath.

(1) No proof shall be admitted to rebut the presumptions laid down in Art. 2020-2024.

(2) The creditor may require the debtor or the debtor may require the creditor to take an oath as to whether or not the debt has been paid.

(3) The heirs of the creditor or debtor may be required to take an oath as to whether they know if the debt has been paid or not.

TITLE XIII EXTRA-CONTRACTUAL LIABILITY AND UNLAWFUL ENRICHMENT

Chapter 1. Extra-Contractual liability

Art. 2027. - Sources of extra-contractual liability.

(1) Irrespective of any undertaking on his part, a person shall be liable for the damage he causes to another by an offence.

(2) A person shall be liable, where the law so provides, for the damage he causes to another by an activity in which he engages or by an object he possesses.

(3) A person shall be liable where a third party for whom he is answerable in law incurs a liability arising out of an offence or resulting from the law.

Section 1. Liability arising from an offence

Paragraph 1. - General rules

Art. 2028 - General principle

Whosoever causes damage to another by an offence shall make it good.

Art. 2029. - Types of offence.

(1) An offence may consist in an intentional act or in mere negligence.

(2) An offence may consist in an act or failure to act.
Art. 2030. - Public morality.

(1) A person commits an offence where he acts or refrains from acting in a manner or in conditions which offend morality or public order.

(2) Regard shall be had to the behaviour of a reasonable man.

(3) Unless otherwise provided by law, the offence shall be assessed without regard to the age or mental state of the person concerned.

Art. 2031. - Professional fault.

(1) A person practising a profession or a specific activity shall, in the practice of such profession or activity, observe the rules governing that practice.

(2) He shall be liable where, due regard being had to scientific facts or the accepted rules of the practice of his profession, he is guilty of imprudence or of negligence constituting definite ignorance of his duties.

Art. 2032. - Intent to injure

(1) A person commits an offence where he acts with intent to injure another notwithstanding that he seeks no personal gain from his act.

(2) A person commits an offence where, with full knowledge of the facts, he causes substantial damage to another in seeking personal gain disproportionate to the damage caused.

Art. 2033. - Abuse of powers.

(1) A person commits an offence where he turns to his own advantage powers conferred upon him in the interest of another.

(2) A public servant commits an offence where he turns to his own advantage or to the advantage of another individual, powers conferred upon him in the public interest by his office.

Art. 2034. - Purpose of rights.

Subject to the provisions of the preceding Articles, the manner in which a right is used may not be challenged on the ground that it is contrary to the economic or social purpose of that right.

Art. 2035. - Infringement of a law.

(1) A person commits an offence where he infringes any specific and explicit provision of a law, decree or administrative regulation.

(2) Ignorance of the law is no excuse.

Art. 2036. - Hierarchical order.

(1) The fact that an act has been carried out on the orders of a higher authority shall not necessarily relieve the doer of liability.

(2) The doer commits an offence where he is aware of the illicit nature of the order, in particular by reason of the lack of competence of the person giving the order, and the criminal nature of the act ordered.

(3) There is no offence where, in the circumstances of the case, and in particular having regard to the strict exigencies of administrative or military discipline, the doer was placed in such a position that he could not discuss the order received or act otherwise than he did.

(1) A person shall not commit an offence involving his extra-contractual liability where he fails to discharge his obligations under a contract.

(2) The provisions regarding the non-performance of contracts shall apply in such case.

Paragraph 2. - Special cases


(1) A person commits an offence where he intentionally makes contact with the person of another against the latter's will.

(2) An offence shall be committed regardless of whether the bodily harm done to the other person is caused by personal contact or by the use of an object, animate or inanimate.

(3) Unless otherwise provided, the mere threat of physical assault on another shall not constitute an offence.

Art. 2039. - Justification.

No offence shall be deemed to have been committed where:

(a) the defendant could not reasonably have foreseen that the plaintiff would object to his act; or

(b) the act was done, in a reasonable manner, in legitimate self-defence, or in the legitimate defence of another, or to safeguard property of which the defendant is the lawful owner or possessor; or

(c) the act consists in reasonable corporal punishment inflicted by the defendant on his child, ward, pupil or servant; or

(d) the plaintiff was a dangerous lunatic whom it was necessary to restrain from doing harm, and the act was done in a reasonable manner; or

(e) there are any other circumstances such as to justify the defendant's action in the eyes of a reasonable person.

Art. 2040. - Interference with the liberty of another. - 1. Principle.

(1) A person commits an offence where, without due legal authority, he interferes with the liberty of another person, even for a short time, and prevents him from moving about as he is entitled to do.

(2) In such a case, an offence shall be deemed to have been committed notwithstanding that no injury is done to the plaintiff's person.

(3) It shall be sufficient for the plaintiff to have been compelled to behave in a certain manner by the threat of a danger of which he could not be unaware.

Art. 2041. - 2. Lawful authority.

No offence shall be deemed to have been committed where the constraint has been imposed in a reasonable manner on a person in the legal custody of the defendant and for the purpose of enforcing the authority conferred upon the latter by law.


(1) No offence shall be deemed to have been committed where the person who has interfered with the liberty of another had good reason to believe that the latter had committed a criminal offence.
(2) The person interfering with the liberty of another shall be liable in the case provided for in sub-art. (1) where he fails to hand over forthwith the person under his constraint to the police.


A person who has provided bail for another, guaranteeing to the authorities that the latter will reside in a certain place, may lawfully interfere with the liberty of the person on bail where he has good reason to believe that he is preparing to abscond.


A person commits an offence where by his words, his writings or by any other means he acts in such a way as to make another living person detestable, contemptible or ridiculous and to jeopardize his credit, his reputation or his future.


(1) The intent to injure shall not be deemed to be an essential requirement for defamation.

(2) No defamation shall be deemed to have been committed where the author of the utterances or writings alleged to be defamatory had no intention of referring in such utterances or writings to any particular person.

(3) In such a case, the author of the utterances or writings shall be liable only where in the circumstances he ought reasonably to have foreseen that his words or writings would inflict injury on another.


(1) A person shall not be deemed to have committed an offence where he confined himself to expressing his opinion on matters of public interest, notwithstanding that such opinion inflicts injury on another by bringing him under public obloquy.

(2) In this case, defamation shall not be deemed to have been committed unless the defendant has made against the plaintiff charges which to his certain knowledge are false.


(1) No defamation shall be deemed to have been committed where the defendant adduces proof of the accuracy of his charges.

(2) In this case, he shall not be liable unless he has acted solely with intent to injure.

Art. 2048. - 5. Immunity.

(1) No liability shall be incurred in respect of utterances made in parliamentary debates or in the course of legal proceedings.

(2) A person who repeats such utterances in their exact form shall be liable only where he has acted solely with intent to injure.


(1) Where defamation is committed by way of publications, no liability shall be incurred where the defendant has acted without intent to injure and without gross negligence, provided that at the plaintiff's request he publishes immediately a withdrawal and an apology.

(2) Where the defamation is committed by way of a periodical which appears at intervals of more than one week, the plaintiff may require the withdrawal and apology to be published immediately in a periodical of his choice.

(3) In other cases, the withdrawal and apology shall be published in the periodical in which the defamatory matter was

(1) A person commits an offence where, knowing her to be married, he or she induces a woman to leave her husband against the husband's will.

(2) A person commits an offence where, knowing him to be married, he or she induces a married man to leave his wife against the wife's will.

(3) A person commits an offence where he receives, harbours or detains a married woman against the will of her husband, in full knowledge of the husband's opposition.

Art. 2051. - 2. Justification

No offence shall be deemed to be committed in the case provided in Art. 2050 (3) where:

(a) the husband and wife have agreed to live apart; or

(b) the husband has been guilty of cruelty to his wife or the defendant had good reason to think so and has received the woman out of humaneness.

Art. 2052. - Duty to educate and to supervise.

(1) A person commits an offence where he fails to take in respect of persons entrusted to his charge or supervision by law or in conformity with the law the measures of education and supervision which may reasonably be expected of him having regard to the circumstances and custom.

(2) He shall be liable where, as a consequence of his default, damage is suffered by the person in his charge.

(3) He shall be liable where, as a consequence of his default, the person subject to his supervision causes damage to a third party.

Art. 2053. - Trespass.

A person commits an offence where, without due legal authority, he forces his way on the land or into the house of another, against the clearly expressed will of the lawful owner or possessor of the land or house.

Art. 2054. - Assault on property.

A person commits an offence where, without due legal authority, he takes possession of property against the clearly expressed will of the lawful owner or possessor of the property.

Art. 2055. - Pre-contractual negotiations.

A person commits an offence, where, having declared his intention of entering into a contract and having induced others to incur expense with a view to concluding a contract with him, he arbitrarily abandons his intention.

Art. 2056. - Disregard of contractual liability.

(1) Whosoever is aware of the existence of a contract between two other persons commits an offence where he enters into a contract with one of those persons thereby rendering impossible the performance of the first contract.

(2) He shall not be liable where the party complaining of the breach of the first contract has failed to take the necessary measures which would have ensured the effective performance of that contract.
Art. 2057. - Unfair competition.

A person commits an offence where, through false publications, or by other means contrary to good faith, he compromises the reputation of a product or the credit of a commercial establishment.

Art. 2058 Simulation.

Where, by his declarations or conduct or by nonfeasance, a person induces third parties, or certain third parties to believe in a certain state of affairs, he commits an offence where, in breach of good faith, he takes action against such third parties based on the true state of affairs.

Art. 2059. - False information. - 1. Principle

A person who, intentionally or by negligence, supplies false information to another commits an offence where:

(a) he knows that the person to whom the information is supplied or another given person, will act upon the information and thereby suffer damage; or

(b) he is bound by the rules of his profession to give correct information.

Art. 2060. - 2. Exception.

(1) The person supplying the incorrect information shall not be liable where the statement made by him relates to the qualifications, conduct, solvency, competence or undertaking of another person and was made with the object of securing credit, money or goods for that person.

(2) In such a case the author of the statement shall not be liable unless he has made it in the form of a signed document.

Art. 2061. - Witnesses.

(1) Witnesses who testify to the occurrence or non-occurrence of a given event or to the existence or non-existence of a given fact shall guarantee the accuracy of their statements.

(2) They shall be liable to third parties having acted on the faith of such statements, where such statements are inaccurate.

(3) Nothing shall affect the right of witnesses in good faith to bring an action against the person who led them into error.

Art. 2062. - Advice or recommendation.

A person shall not be deemed to have committed an offence where he confined himself to giving advice or making a recommendation to another.

Art. 2063. - Distrain.

A person commits an offence where, in order to secure payment of a debt due to him, he unnecessarily seizes goods in the possession of his debtor to an extent disproportionate to the amount of the debt.

Art. 2064. - Execution of a court order.

(1) A bailiff does not commit an offence by executing a court order which is made in the prescribed form.

(2) An offence shall be deemed to be committed where the order is not in the prescribed form or the bailiff exceeds his instructions or carries them out without due regard for the provisions of the law.
Art. 2065. - Limitation of action.

A person does not commit an offence by invoking usucaption or time-limit which has operated to his benefit.

Section 2. Liability in the absence of an offence

Art. 2066. - Necessity.

(1) A person shall be liable for any damage he deliberately causes to another in order to save himself or another from an imminent damage to person or property.

(2) No liability shall be incurred where the damage is due to the victim’s fault.


(1) A person shall be liable where by his act he inflicts bodily harm on another.

(2) No liability shall be incurred where the act causing the harm was ordered by law or was done in legitimate self-defence, or where the harm is due solely to the victim's fault.

Art. 2068. - 2. Sporting activities.

No liability shall be incurred where, in the exercise of a sporting activity, a person injures another taking part in the same activity, or present as a spectator, provided that there is no deceit or gross infringement of the rules of the sport.

Art. 2069. - Dangerous activities. - 1. Principle.

(1) A person who exposes another to abnormal risk, by using or storing explosive or poisonous substances, or by erecting high-tension electric transmission lines, or by modifying the lie of the land, or by engaging in an exceptionally dangerous industrial activity, shall be liable where the danger he has created materializes, thereby causing damage to another.

(2) The provision of sub-art. (1) shall apply notwithstanding that the author of the danger is the State or has received an authorisation from the public authorities.


Except in the case of fault, no liability shall be incurred where the value of neighbouring property is reduced in consequence of an abnormal risk being created.

Art. 2071. - Liability for animals. - 1. Owner.

The owner of an animal shall be liable for any damage caused by the animal, notwithstanding that it has eluded his control accidentally or the damage caused was unforeseeable.


(1) A person who has taken possession of an animal for purposes of personal gain shall be liable for any damage caused by the animal while in his custody.

(2) The provisions of sub-art. (1) shall apply where a person has hired or borrowed the animal, or has taken possession of it in order to take care of it, or for any other reason.

(3) An employee attending to an animal, or making use of it for the owner's account or for the account of another person, shall not be liable for any damage, caused by the animal unless it is due to his own fault.

(1) The owner who has paid compensation to the victim may recover from the person in whose charge the animal was.

(2) He may claim to be indemnified in full, unless the damage be due to his own fault or that of a person for whom he is liable.

Art. 2074. - 4. Surrender of animal by the owner.

(1) Where damage is caused by a domestic animal, the owner of the animal may relieve himself of his liability by surrendering the ownership of the animal to the person who has suffered the damage.

(2) He may not relieve himself of liability under sub-art. (1) where the damage is the consequence of an offence committed by himself or by a person for whom he is liable.

(3) Only those animals which it is customary to keep for purposes of pleasure or gain shall be deemed, to be domestic animals.

Art. 2075. - 5. Surrender of animal by custodian.

(1) The person in charge of the animal shall only be; liable to the value of the animal at the time when the damage was caused.

(2) His liability shall not be limited where the damage was caused by an animal other than a domestic animal or arises from an offence committed by himself or by a person for whom he is liable.


(1) In order to secure compensation which may be due to him, the owner or possessor of land may seize and take charge of animals belonging to another person which have caused damage to his property.

(2) He may kill them where circumstances require this in order to prevent substantial damage disproportionate to the animal's value.

(3) He shall in both events notify the owner of the animals without delay or, where the owner is unknown to him, take the necessary measures to ascertain him.


(1) The owner of a building shall be liable for any damage due to the building even where the damage was unforeseeable.

(2) The owner may claim compensation from the person who built the building, from the occupier or from the person by whose fault the damage was caused.


(1) The owner may relieve himself of his liability by surrendering the ownership of the building to the person who has suffered the damage.

(2) He may not relieve himself of liability under sub-art. (1) where the damage is the consequence of an offence committed by himself or by a person for whom he is liable.

Art. 2079. - 3. Threat of damage.

A person endangered by another's building may require the owner thereof to take the necessary measures to avert the danger.

Art. 2080. - 4. Objects falling from a building.
The occupier of a building shall be liable for any damage caused by objects falling from it.


(1) The owner of a machine or motor vehicle shall be liable for any damage caused by the machine or vehicle, notwithstanding that the damage was caused by a person who was not authorised to operate, handle or drive the machine or vehicle.

(2) He shall not be liable where he proves that, at the time when the damage was caused, the machine or vehicle had been stolen from him.

Art. 2082. - 2. Keeper or agent.

(1) A person who has taken possession of the machine or vehicle for purposes of personal gain shall be liable for any damage caused by the machine or vehicle while in his possession.

(2) An agent who has charge of the machine or vehicle for the owner's account or for the account of another person shall not be liable for any damage caused by the machine or vehicle, except in cases of fault.


(1) The owner who has paid compensation to the victim may recover from the person in whose keeping the machine or vehicle was.

(2) He may claim to be indemnified in full, unless he has committed an offence or an offence has been committed by a person for whom he is liable.

Art. 2084. - Collision between vehicles.

(1) Where two motor vehicles are in collision, each of the vehicles shall be deemed to have contributed equally to the accident.

(2) The owner of each vehicle, or the person responsible for it, shall bear half the total amount of the damage resulting from the accident.

(3) The provisions of this Article shall not apply where it is proved that the accident was due, entirely or chiefly, to the fault of one of the drivers.

Art. 2085. - Manufactured goods.

(1) A person who manufactures goods and sells them to the public for profit shall be liable for any damage to another person resulting from the normal use of the goods.

(2) No liability shall be incurred where the defect which has caused the damage could have been discovered by a customary examination of the goods.

Art. 2086. - Exemption from liability.

(1) The persons declared legally liable for the creation of an abnormal risk or for a damage caused by animals, buildings, machines, motor vehicles or manufactured goods, may relieve themselves of their liability to the victim by proving that they have committed no offence, or that it was impossible to establish the cause of the damage, or that it was not within their power to prevent the damage or that the damage was due to the fault of a third party.

(2) They shall be relieved of their liability, entirely or in part, only where the damage is due solely or partly to the fault of the victim.

Art. 2087. - Other objects.
Without prejudice to the provisions of the preceding Articles, the owner or keeper of an object shall be liable for any damage caused by the object only where he has committed an offence or an offence has been committed by a person for whom he is liable.

Art. 2088. - Contractual obligations.

(1) The rules relating to liability arising out of abnormal risks, or out of animals, buildings or objects, may not be invoked by a person who, under a contract concluded by the person legally responsible, is connected with the dangerous industrial activity, animal, building or object which has caused the damage.

(2) The consequences of the damage shall in this case be settled in accordance with the rules governing the agreement reached.

Art. 2089. - Disinterested parties.

(1) The rules governing liability arising out of animals, buildings or objects may not be invoked by a person who, even in the absence of a contract, was at the time of the damage making use of the animal, building or object without the owner or keeper thereof deriving benefit from such use.

(2) In such a case, the owner or keeper shall not be liable unless he has committed an offence.

Section 3. Mode and extent of compensation

Paragraph 1. - Damages

A Material damage

Art. 2090. - Modes of compensation.

(1) Unless otherwise provided, the damage shall be made good by awarding the victim an equivalent amount in damages.

(2) The court may, subject to the liberty of persons and to the rights of third parties, order in lieu of or in addition to damages any appropriate measures to make good or limit the damage.

Art. 2091. - Extent of damages.

The damages due by the person legally declared to be liable shall be equal to the damage caused to the victim by the act giving rise to the liability.

Art. 2092. - Future damage.

A future damage which is certain to occur shall be made good without waiting for it to materialise.

Art. 2093. - Insured victim.

(1) Where the victim is insured, he may claim compensation for the damage he has suffered on the same terms as though he had not been insured.

(2) The insurer may not claim compensation on his own behalf from the person who by his act has brought about the risk covered by the insurance contract.

(3) The insurance contract may, however, provide for the subrogation of the insurer to the victim's claim against the person liable.

Art. 2094. - Victim pensioned off.
(1) Where the victim receives a pension as a result of the act which caused him damage, he may claim compensation for the damage he has suffered on the same terms as though he had not received a pension.

(2) The person paying the pension may not claim compensation on his own behalf from the person who by his act has caused the pension to fall due.

(3) The bond joining him to the victim may make provision for subrogation to the victim's claim against the person liable.

Art. 2095. - Fatal accidents. - 1. Rights of certain next of kin.

(1) In the case of a fatal accident, the spouse of the victim, his ascendants and his descendants may claim compensation on their behalf for the material damage they have suffered as a result of his death.

(2) In this case the compensation for the damage shall be in the form of a maintenance allowance.

(3) The maintenance allowance shall be due notwithstanding that the plaintiffs have relatives whom they can ask to support them.

Art. 2096. - 2. Other persons.

Other persons may not claim compensation on their own behalf in cases of fatal accidents, even where they show that they were materially assisted or supported by the victim.

Art. 2097. - Good faith.

(1) Compensation for the damage may not be claimed contrary to good faith.

(2) The victim may not claim compensation for the damage he has suffered in so far as, by acting in a reasonable manner, he could have avoided or limited the damage.

Art. 2098. - Fault of the victim.

(1) Where the damage is due partly to the fault of the victim, the latter shall be entitled to partial compensation only.

(2) In fixing the extent to which the damage shall be made good, all the circumstances of the case shall be taken into consideration, in particular the extent to which the faults committed have contributed to causing the damage and the respective gravity of these faults.


(1) The court may, where equity so requires, reduce the compensation awarded where the offence giving rise to the liability was committed by a person who was not in a state to appreciate the wrongful nature of his conduct.

(2) In this matter, regard shall be had to the respective financial positions of the parties and the consequences for the author of the offence of his liability to make the damage good.


(1) The court may, where equity so requires, reduce the compensation awarded where a sense of duty deriving from discipline or obedience moved the author of the offence to commit it.

(2) Regard shall be had to the degree of imperativeness of the duty.


(1) The court may, where equity so requires, reduce the compensation to be paid by a person who caused a damage which, in consequence of unforeseeable circumstances, expanded beyond what could reason-ably be expected.
(2) No reduction may be ordered under sub-art. (1) where the damage arises from an intentional offence.

**Art. 2102. - 4. Difficulty of assessment.**

(1) Where the exact amount of the damage cannot be calculated, the court shall fix it equitably, taking into account the ordinary course of events and the measures taken by the injured party.

(2) No indemnity may be awarded in respect of a damage of which the very existence, and not only the amount, is doubtful.

**Art. 2103. - 5. Necessity.**

The court shall fix equitably the amount of compensation due from a person who, without committing an offence, caused damage to the property of another in order to save himself or another from an imminent damage or danger.

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**Art. 2101. - Nominal damages.**

Damages of a purely nominal amount may be awarded where the action has been brought solely with a view to establishing that a right of the plaintiff has been infringed, or that a liability has been incurred by the defendant.

**II. Moral injury**

**Art. 2105. - 1. Principle.**

(1) The author of a misdeed shall make good the moral harm resulting from his misdeed wherever adequate procedure exists for such redress.

(2) Unless otherwise expressly provided by law, moral harm may not be made good by way of damages.

**Art. 2106. - Intentional offence.**

Where moral harm has been inflicted upon the plaintiff deliberately, the court may, by way of redress, order the defendant to pay fair compensation to the plaintiff or to a charity named by the plaintiff.

**Art. 2107. - Physical assault.**

Where the defendant has forced an unpleasant or repulsive contact on the plaintiff's person, the court may, by way of redress, order the defendant to pay fair compensation to the plaintiff or to a charity named by the plaintiff.

**Art. 2108. - Unlawful restraint.**

Where the plaintiff has been unlawfully deprived of his liberty by the defendant, the court may, by way of redress, order the defendant to pay fair compensation to the plaintiff or to a charity named by the plaintiff.

**Art. 2109. - Defamation.**

Fair compensation may be awarded by way of redress to the plaintiff or to a charity named by him, in the case of insult or defamation where:

(a) the injurious or defamatory charges are that the plaintiff has committed a crime or an offence punishable under the criminal law; or

(b) they allege that the plaintiff is incompetent or dishonest in the exercise of his profession; or

(c) they allege that the plaintiff, if a business man, is insolvent; or

(d) they allege that the plaintiff is suffering from a contagious disease; or
(e) they allege that the plaintiff is of low morals.

Art. 2110. - Injury to the rights of spouses.

Fair compensation, may be awarded by way of redress to the plaintiff or to a charity named by him, where the defendant has injured his or her rights as a spouse (Art. 2050).

Art. 2111. - Abduction of child.

Fair compensation may be awarded by way of redress to the plaintiff or to a charity named by him, where the defendant has been sentenced by a criminal court for having abducted a child which is in the plaintiff's lawful custody.

Art. 2112. - Assault on property.

Fair compensation may be awarded by way of redress where the defendant has, against the clearly expressed will of the plaintiff, forced his way into his land or house or seized property of which the plaintiff is the lawful owner.

Art. 2113. - Physical injuries or death.

Fair compensation may be awarded by way of redress to the victim of bodily injuries or, in the event of his death in consequence thereof, to his family.

Art. 2114. - Indecent assault.

(1) Where a person has been sentenced by a criminal court for rape or indecent assault, the court may award the victim fair compensation by way of redress.

(2) In such an event, compensation may also be awarded to the husband of the woman, or to the family of the girl who has been raped.

Art. 2115. - Injury to a wife.

(1) Fair compensation may be awarded by way of redress to a husband against a person who, by inflicting bodily injury on the wife, renders her companionship less useful or less agreeable to the husband.

(2) The action which the husband may bring on this ground shall be independent of the action for damages which the wife may bring in respect of the injury she has suffered.

Art. 2116. - Custom.

(1) In fixing the amount of the fair compensation provided for in the preceding Articles, and in establishing who is qualified to act as representative of the family, the court shall have regard to local usages.

(2) The court may not disregard such usages unless they are anachronistic or manifestly contrary to reason or morals.

(3) The compensation awarded for moral injury may in no case exceed one thousand Ethiopian dollars.

Art. 2117. - Representative of the family.

In the absence of any applicable local usage, the following shall alone be considered as qualified to represent the family:

(a) the victim's husband or wife; or

(b) failing such or where he or she is incapable, the victim's eldest child who is capable under the law; or
(c) failing such or where he or she is incapable, the victim's father; or

(d) failing such or where he is incapable, the victim's mother; or

(e) failing such or where she is incapable, the eldest of the victim's brothers or sisters who is capable under the law.

**Paragraph 2 Other modes of compensation**

**Art. 2118. - Restitution.**

(1) The court shall order the return to the plaintiff of property which has been improperly taken away from him, and of the emblems yielded by the property since the date of its removal.

(2) Where the property has been lost or destroyed the defendant shall repay its value, notwithstanding that the loss is due to force majeure.

(3) Where the defendant has incurred expense on the property which he is required to return, the provisions relating to unlawful enrichment shall apply (Art. 2168-2178).

**Art. 2119. - Restitution in kind.**

(1) The court may, where it thinks fit, order the property which has been damaged or destroyed to be replaced or put in order at the expense of the person responsible for the destruction or deterioration.

(2) In this case, the court shall fix the way in which the property is to be replaced or put in order.

(3) This mode of compensation may not be prescribed where the duty to compensate falls on the State.

**Art. 2120. - Honour and reputation.**

In the case of dealings directed against the honour or reputation of an individual or individuals, the court may order such publicity to be made at the defendant's expense as is likely to counter the effect of the dealings.

**Art. 2121. - Injunctions.**

(1) The court may grant an injunction restraining the defendant from committing, from continuing to commit or from resuming an act prejudicial to the plaintiff.

(2) An injunction shall be granted only where there are good reasons to believe that the act prejudicial to the plaintiff is likely to be carried out and where the injury with which he is threatened is such that it cannot be redressed by an award of damages.

**Art. 2122. - Unfair competition.**

In the case of unfair competition, the court may order the abandonment of the dishonest practices used by the defendant.

**Art. 2123. - Simulation.**

Acts done by third parties on the faith of a pretence may be declared demurrable against the person who, by his behaviour or by non-feasance, has created the pretence.

**Section 4. Liability for the actions of others**

**Art. 2124. - Father’s liability.**

The father shall be liable under the law where his minor child incurs a liability.

**Art. 2125. - Other guardians of the child.**
The following persons shall be liable in lieu of the father:

(a) the mother, where she exercises the paternal authority over the child;
(b) the person in whose charge the child has been placed, where the child lives outside the family home;
(c) the headmaster or the employer during the time when the child is at school or serving an apprenticeship;
(d) the employer where, under the terms of the following Articles, his liability is involved in consequence of an act committed by the child.


(1) Any civil servant or government employee shall make good any damage he causes to another by his fault.

(2) Where the fault is a professional fault, the victim may claim compensation from the State, provided that the State may subsequently claim from the servant or employee at fault.

(3) The State shall not be liable where the fault is a personal fault.


(1) A fault shall be deemed to be a professional fault where the person who committed it believed in good faith that he acted within the scope of his duties and in the interest of the State.

(2) A fault shall be deemed to be a personal fault in other cases.

(3) Unless the contrary is proved, the servant or employee shall be deemed to have acted in good faith.

Art. 2128. - 3. Assimilated cases.

The provisions of Art. 2126 and 2127 shall apply to the liability of servants or employees of a territorial subdivision of the State or of a public service with legal status.

Art. 2129. - Liability of bodies corporate.

Bodies corporate shall be liable under the law where one of their representatives, agents or paid workers incurs a liability in the discharge of his duties.

Art. 2130. - Employer’s liability.

The employer shall be liable under the law where one of his employees incurs a liability in the discharge of his duties.

Art. 2131. - Discharge of duties.

(1) For the purpose of Art. 2129 and 2130, a liability shall be deemed to have been incurred in the discharge of duties where the wrongful act or the abstention was committed for the purpose of carrying out the duties.

(2) The fact that the wrongful act or abstention was ultra vires, or that its author was strictly forbidden to commit it, shall not release the person who is legally responsible from his liability unless the victim knew or ought to have known of that fact.

Art. 2132. - Presumption.

(1) Where the damage is caused by the representative or agent of a body corporate or by a paid worker at the place where or during the time when he is normally employed, he shall be deemed to have caused the damage in the discharge of his duties.
(2) Proof to the contrary is admissible to rebut such presumption.

Art. 2133. - Non-discharge of duties.

The liability shall not be deemed to have been incurred in the discharge of duties where such duties have merely provided their author with an opportunity of committing the wrongful act or abstention which caused the damage.

Art. 2134. - Independent workers.

A person shall not be liable for the faults or offences committed by another while carrying out work which he has asked him to do, where the author of the offence is not subject to the former's authority and is to be considered as having retained his independence.

Art. 2135. - Defamation.

The managing editor of the newspaper, the printer of the pamphlet or the publisher of the book shall be liable under the law for defamation committed by the author of a printed text.

Art. 2136. - Cumulation of liabilities.

(1) A person who caused damage shall repair it notwithstanding that another person is declared by law to be liable for such damage.

(2) The person who caused the damage and the person whom the law declares to be liable for such damage shall be jointly liable to repair such damage.

(3) The person under the law liable for the action of another may demand that the author of the damage be made a party to the proceedings brought by the victim for compensation.

Section 5. Action for damages


No action for liability based on an offence committed by Him may be brought against His Majesty the Emperor of Ethiopia.


No action for liability may be brought as the result of an act connected with their functions against:

(a) a member of the Imperial Ethiopian Government; or

(b) a member of the Ethiopian Parliament; or

(c) a judge of the Ethiopian courts.

Art. 2139. - Exception.

The provisions of Art. 2138 shall not apply where the persons mentioned therein have been sentenced by a criminal court for acts pertaining to their office and invoked by the plaintiff.

Art. 2140. - Reference to the administrative law.

Where the State is liable, the rules of administrative law determine against whom the action shall be brought and which department or service shall finally assume the burden of the debt.
Art. 2141. - Burden of proof.

The victim of the injury shall establish the amount thereof and prove the circumstances which render the defendant liable to make it good.

Art. 2142. - Undiscovered author of damage.

(1) Where damage has been caused by one or other of several persons and it is impossible to ascertain which of the persons involved is the author, the court may, where equity so requires, order the damage to be made good jointly by the group of persons who could have caused it and among whom the author of the damage is certainly to be found.

(2) In such case, the court may order the damage to be made good by the person who is beyond doubt liable under the law for the undetermined author of the damage.

Art. 2143. - Period of limitation.

(1) The action shall be brought by the victim within two years from the time at which he suffered the damage for which he is claiming compensation.

(2) Where the damage arises from the commission of a criminal offence in respect of which the Penal Code prescribes a longer period of limitation, the latter period shall apply to the action for damages.

(3) Nothing in this Article shall affect the right of the victim to make a claim for the recovery of his property or to invoke the provisions relating to unlawful enrichment (Art. 2162-2178).

Art. 2144. - Heirs.

(1) The victim's heirs may claim compensation for the material damage he has suffered.

(2) Unless otherwise provided by law, they may not claim compensation for moral injury suffered by the victim unless an action for compensation for such injury has been initiated by the victim during his lifetime.

(3) The succession of the person who is liable for the injury shall be liable as he himself was to make good the damage.

Art. 2145. - Victim's creditors.

(1) The creditors of a person may not claim compensation on behalf of the debtor for an injury done to him where such injury is connected with his person, his physical integrity or his honour.

(2) They may, on the conditions laid down in Art. 1993, bring their debtor's action where the debtor has, after the date on which they became his creditors, suffered an injury affecting solely his financial interests.

Art. 2146. - Claim may not be assigned.

(1) The victim's claim against the person liable for the damage may not be assigned so long as it has not been upheld by a decision of the court and the amount fixed.

(2) It may thereupon be assigned in accordance with the provisions of Art. 1962-1975.

Art. 2147. - Agreement excluding liability.

(1) A person may not relieve himself of the consequences of an offence.

(2) A person may stipulate by contract that he will not be liable for offences committed by a person for whom is liable under the law.

(3) A person may stipulate by contract that he will not be liable, except in the case of an offence, for damage which, under
the provisions of this Title, is to be made good in the absence of any offence.

Art. 2148. - Compromise.

After damage has been caused, the parties may agree that it shall not entail compensation or may compromise on the conditions on which it shall be made good.

Art. 2149. - Effect of criminal on civil action.

In deciding whether an offence has been committed, the court shall not be bound by an acquittal or discharge by a criminal court.

Art. 2150. - Date of assessment of damage.

(1) The court shall assess the damage suffered by the victim as on the day on which it renders judgment.

(2) Where it is impossible finally to evaluate the damage on that date, the court may give a provisional judgment and authorise an application for reconsideration of such decision.

(3) The application for reconsideration may not be made later than two years from the date of the provisional judgment.

Art. 2151. - Res Judicata.

(1) Without prejudice to the provisions of Art. 2150, the court's evaluation of the damage shall be final.

(2) The victim may not bring a fresh action for compensation for other damage he has suffered unless such damage was caused independently of that for which he has already claimed compensation.

Art. 2152. - No appeal.

No appeal shall lie against the judgment of the court of first instance relating to the amount of damages to be paid.

Art. 2153. Exceptions.

The provisions of Art. 2152 shall not apply where:

(a) the court has taken into consideration circumstances which it should not have taken into account or has failed to take into consideration circumstances which it should have taken into account; or

(b) the amount of damages fixed by the court is manifestly unreasonable and could only have been inspired by prejudice or improper motive; or

(c) the amount of damages is due to an error of calculation on the part of the court.

Art. 2154. - Allowance.

(1) Where such mode of payment is justified by the nature of the damage or by the circumstances attending the case, the court may order the damage to be made good by means of an allowance.

(2) In such case the debtor shall provide security for the payment of the allowance.

Art. 2155. - Joint liability.

(1) Where several persons are required to make good the same damage, they shall do so jointly.

(2) No distinction shall be made between instigator, principal and accomplice.
(3) Persons required to make good the same damage shall be jointly liable regardless of whether the liability has its source for one or other of them in a contract or in an extra-contractual liability.


Where only one of the persons liable has committed an offence, he shall alone finally bear the burden of the debt.


(1) Where the offence has been committed in the discharge of his duties by the representative or agent of a body corporate or by a paid worker the court may decide that the debt shall finally be borne, either wholly or partly, by the body corporate or the employer.

(2) Where the offence consists in a professional fault committed by a civil servant or employee, the court may decide that the debt shall finally be borne, either wholly or partly, by the State or its territorial subdivision or the public service concerned.

Art. 2158. - 3. Directions to follow.

(1) In making its decision, the court shall take account of the gravity of the offence and whether it was due to the author's desire to carry out his duties as conscientiously as possible.

(2) No regard shall be had to the respective financial positions of the persons declared liable.

Art. 2159. - 4. Restriction.

No division of liability may be granted by the court where:

(a) the act giving rise to the liability was committed with intent to harm; or

(b) the act is a criminal offence the author of which has been sentenced by a criminal court.

Art. 2160. - Collective liability.

(1) Where several persons have contributed by their fault or offence to the same damage, the court shall fix on the basis of equity what proportion of the debt is finally to be borne by each of the persons liable.

(2) In making its decision, the court shall have regard to all the circumstances, in particular the extent to which the several offences contributed to the damage and the gravity of each such offence.

Art. 2161. - Subrogation.

(1) A person who has paid the whole debt although he is not bound finally to bear more than a part thereof shall be entitled to recover from those liable with him.

(2) For the purpose of such recovery he shall be subrogated to the victim's claim.

(3) The court may in its judgment subrogate the person sentenced to the victim's possible claims against other persons liable for the damage.

Chapter 2. Unlawful Enrichment

Section 1. General provisions

Art. 2162. - General principle.
Whosoever has derived a gain from the work or property of another without just cause shall indemnify the person at whose expense he has enriched himself to the extent to which he has benefited from his work or property.

**Art. 2163. - Loss of enrichment.**

(1) Restitution shall not be ordered to the extent to which the person who has received the undue gain can show that he is no longer enriched at the time of the claim for recovery.

(2) Restitution shall be due where the defendant has alienated the enrichment in bad faith or where, at the time of alienating it, he ought to have been aware that he was bound to make restitution.

(3) Where the unlawful enrichment has been transferred without consideration to a third party, the claim for restitution may be brought against the third party.

**Section 2. Undue payments**

**Art. 2164. - Undue payment.**

(1) Whosoever has paid what he was not required to pay may recover it.

(2) He may demand restitution of the fruits of the property, or legal interest, from the date on which the payment was made, where the person to whom the payment was made acted in bad faith.

**Art. 2165. - Absence of mistake.**

Recovery shall not be admitted where a person pays voluntarily and in full knowledge of the facts what he knew he was not bound to pay.

**Art. 2166. - Sufficient cause.**

(1) Recovery shall not be admitted where the payment was made in the discharge of a barred debt or of a moral obligation.

(2) Recovery shall be admitted in such case where the person who made the payment was not competent to alienate without consideration.

**Art. 2167. - Recovery precluded.**

(1) The receiver of the undue payment shall owe no restitution where, as a consequence of the payment, he has in good faith destroyed or annulled his title, relinquished the security for his claim or allowed his action against the true debtor to lapse.

(2) In such case, the person who made the undue payment shall have legal redress against the true debtor only.

**Section 3. Expenses**

**Art. 2168. - Scope of this Section.**

Where a person is required to return property which has been in his possession for some time, his rights and obligations arising out of any modifications he may have made to the property shall, unless otherwise provided for by law or contract, be subject to the provisions of the following Articles.
The person who is required to make restitution shall be entitled to the reimbursement of the expenses he has incurred in preventing the loss or deterioration of the property, unless the expenses were not useful or were rendered necessary by the person’s own fault or by the fault of another person for whom he is liable.

Art. 2170. - Cost of upkeep.

The person who is required to make restitution shall not be entitled to any indemnity for the cost of maintaining the property or in respect of taxes he has paid as a consequence of his possessing it.

Art. 2171. - Value added to the property.

1) Where expenses incurred on the property have increased its value, the person required to make restitution shall be entitled to their reimbursement.

2) He may not claim more than the increase in value calculated at the time of restitution, resulting from the expenses he has incurred.

Art. 2172. - Bad faith.

1) The court may, where equity so requires, reduce or refuse any indemnity as provided in Art. 2171 where, at the time when he incurred the expense, the defendant knew or ought to have known of his liability to return the property.

2) The court may, where equity so requires, grant the plaintiff a period of grace not exceeding two years for payment of the indemnity provided in Art. 2171.

Art. 2173. - Jus tollendi.

A person who is required to make restitution may before returning any part of the property remove anything he has joined to it which can be separated without appreciable damage to the property.

Art. 2174. - Right of retention.

1) The person required to make restitution may refuse to return the property until he has received payment of the indemnity due to him under the terms of the preceding Articles or until he has received adequate security for its payment on the day on which it is due.

2) The right of retention may not be invoked by a thief or by a person who, at the time when he took possession of the property, knew that he had no legal right, or right deriving from a valid contract, to it.

Art. 2175. - Deterioration.

1) The person required to make restitution shall indemnify the true owner where the former has caused the property to deteriorate.

2) He shall be liable for any deterioration of the property, even where caused by force majeure, where, at the time when it occurred, he knew that he had no legal right, or right deriving from a valid contract, to the property.

Art. 2176. - Loss of the property.

1) The provisions of Art. 2175 shall apply in the case of total or partial loss of the property.

2) They shall apply where for any reason whatsoever the property cannot be returned in kind to the person entitled to it.

Art. 2177. - Extent of indemnity.

1) The indemnity due shall be equal to the value of the property at the time at which it becomes impossible to return it in kind.
(2) Where the person required to make restitution knew at that time that he had no legal right, or right deriving from a valid contract, to the property, additional damages may be claimed from him.

(3) In such case, the person entitled to restitution shall be placed in the position he would have been in, had he retained uninterrupted possession of his property.

Art. 2178. - Fruits.

(1) The person required to make restitution shall retain the fruits of the property he has received.

(2) He shall pay to the plaintiff their value where he knew at the time of taking possession of the property that he had no legal right, or right deriving from a valid contract, to it.

TITLE XIV. AGENCY

Chapter 1. General provisions

Art. 2179. - Source of authority.

The authority to act on behalf of another may derive from the law or a contract.

Art. 2180. - Form of authority.

Where the law requires that a contract be made in a prescribed form, the authority to enter into such contract on behalf of another shall be given in the same form.

Art. 2181. - Scope of power of attorney.

(1) The scope of a power of attorney given by contract shall be fixed in accordance with the contract.

(2) Where the agent informs a third party of his power of attorney, the scope of his authority shall, as regards such third party, be fixed in accordance with the information given to him by the agent.

(3) The scope of a power of attorney shall be interpreted in a restrictive manner.

Art. 2182. - Extinction of power of attorney.

(1) Unless otherwise agreed, a power of attorney given by contract shall be extinguished where the principal or the agent dies, is declared absent, becomes incapable or is adjudged bankrupt.

(2) The provisions of sub-art. (1) shall apply where a body corporate ceases to exist.

Art. 2183. - Revocation of authority.

(1) The principal may at any time restrict or revoke, as regards third parties, the authority he gave to the agent to make contracts in his name.

(2) Any waiving of such right shall be of no effect.

Art. 2184. - Document to be returned.

(1) The agent shall upon the authority coming to an end return to the principal the document, if any, evidencing his authority.

(2) He may not retain such document until final settlement of his accounts or claims with the principal.

Where the agent alleges to have lost the document evidencing his power, the principal may, at the expense of the agent, apply to the court to declare that the document is revoked.

Art. 2186. - Justification of authority.

Whosoever has dealings with an agent may at any time require him to produce a justification of his authority and, where his authority is evidenced by a document, to produce a copy of such document duly signed by the agent.

Art. 2187. - Conflicting interests.

(1) A contract made by an agent in a case where his interests conflict with those of the principal may be cancelled at the request of the principal where the third party who entered into the contract knew or should have known of the conflict.

(2) The principal shall, within two years from his knowing of such circumstances, declare whether or not he intends to cancel the contract.

(3) The contract shall be cancelled where the third party concerned fails to declare his intention to be bound by the contract within two months from having been informed of the principal's intention to cancel the contract.

Art. 2188. - Contract with oneself.

(1) A contract made by an agent may be cancelled at the request of the principal where the agent made the contract with himself, whether he acted on his own behalf or in the name of a third party.

(2) The provisions of sub-art. (2) and (3) of Art. 2187 shall apply in such case.

(3) Nothing in this Article shall affect the special provisions applicable to commission agents (Art. 2248 and 2252).

Art. 2189. - Complete agency.

(1) Contracts made by an agent in the name of another within the scope of his power shall be deemed to have been made directly by the principal.

(2) The principal may avail himself of any defect in the consent of the agent at the time of the making of the contract.

(3) Any fraud committed by the agent may be set up against the principal by the third party who entered into the contract with the agent.

Art. 2190. - Abuse or lapse of power.

(1) Contracts made by an agent in the name of another outside the scope of his power may be ratified or repudiated at his option by the person in whose name the agent acted.

(2) The provisions of sub-art. (1) shall apply where the agent acted under an authority which had lapsed.

Art. 2191. - Option of principal.

(1) The third party having entered into the contract with the agent may demand that the person in whose name the agent acted immediately declare whether he intends to ratify or to repudiate the contract.

(2) Failing immediate ratification, the contract shall be deemed to be repudiated.

Art. 2192. - Effect of ratification.

Where the contract is ratified, the agent shall be deemed to have acted within the scope of his power.
Art. 2193. - Effect of repudiation.

(1) The provisions of Art. 1808-1818 of this Code shall apply where the contract is repudiated.

(2) The third party having entered into the contract with the agent may demand that the damage caused to him by reason of his having in good faith believed in the existence of a valid authority be made good in accordance with the provisions of the following Articles.

Art. 2194. - Liability.

(1) The agent shall be liable to pay compensation to the third party in the case referred to in Art. 2193.

(2) The agent shall not be liable where he acted in good faith not knowing the reason by which his authority had come to an end.

(3) The principal shall in such case be liable to pay compensation.

Art. 2195. - Liability of principal.

The principal shall be jointly liable with the agent where:

(a) he informed a third party of the existence of the power of attorney but failed to inform him of the partial or total revocation of such power; or

(b) he failed to ask the agent to return the document evidencing the power of attorney and failed to seek a judicial decision to the effect that such document was revoked; or

(c) he caused in any other manner, in particular by his statements, behaviour or failure to act, a third party to believe that the person with whom he was dealing was authorised to act on behalf of the principal.

Art. 2196. - Exclusion of liability.

(1) Except in cases of fraud, a third party who has dealings with the agent may not claim compensation from the agent on the ground that he acted outside the scope of his authority where such third party, prior to entering into the contract, took cognizance of the document evidencing the authority of the agent.

(2) A third party may not claim compensation where the personal qualifications of the person with whom he has dealings is not essential to him and the agent agrees to be personally bound by the act he has done on behalf of another.

Art. 2197. - Agent acting on his own behalf.

(1) An agent who acts on his own behalf shall personally enjoy the rights or incur the liabilities deriving from the contracts he makes with third parties, notwithstanding that such third parties know that he is an agent.

(2) Third parties shall in such case have no direct action against the principal and may only exercise against him, on behalf of the agent, the rights pertaining to the agent.

Art. 2198. - Rights of principal.

(1) Without prejudice to the rights of third parties in good faith, the principal may recover any movable which the agent acquired on his behalf while acting in his name.

(2) He may substitute himself for the agent with a view to enforcing the claims acquired on his behalf.

(3) The principal may not exercise his rights under this Article unless he discharges his obligations towards the agent.
Chapter 2. Agency

Art. 2199. - Definition.

Agency is a contract whereby a person, the agent, agrees with another person, the principal, to represent him and to perform on his behalf one or several legally binding acts.

Section 1. Formation and object of agency

Art. 2200. - Form of agency.

(1) Authority may be conferred upon an agent either expressly or impliedly.

(2) Where the act to be performed by the agent is under the law to be made in a prescribed form, such form shall be complied with in conferring authority upon the agent.

Art. 2201. - Acceptance of agency.

(1) Acceptance by the agent of his appointment may be either express or implied.

(2) The appointment as an agent shall be deemed to be accepted, unless it be immediately refused, where it refers to functions which the agent carries out in an official capacity or professionally, or where he holds himself out publicly for such functions.

Art. 2202. Scope of agency.

(1) Where the scope of the agency is not expressly fixed in the contract, such scope shall be fixed according to the nature of the transaction to which it relates.

(2) The agency may either be special for a particular affair or certain affairs only, or general for all the affairs of the principal.

Art. 2203 - General agency.

Agency expressed in general terms shall only confer upon the agent authority to perform acts of management.


(1) Acts done for the preservation or maintenance of property, leases for terms not exceeding three years, the collection of debts, the investment of income and the discharge of debts shall be deemed to be acts of management.

(2) The sale of crops, goods intended to be sold or perishable commodities shall be deemed to be acts of management.

Art. 2205. - Special agency.

(1) Special authority shall be required where the agent is called upon to perform acts other than acts of management.

(2) The agent may not without special authority alienate or mortgage real estate, invest capitals, sign bills of exchange, effect a settlement, consent to arbitration, make donations or bring or defend an action.

Art. 2206. - Authority of special agent.

(1) Special agency shall confer upon the agent authority only to conduct the affairs specified therein and their natural consequences according to the nature of the affair and usage.

(2) An act performed by the agent outside the scope of his authority shall not bind the principal unless he ratifies it, or in accordance with the principles governing unauthorised agency.
Art. 2207. Obligation to ratify.

(1) The principal shall, where good faith so requires, ratify the act done by the agent notwithstanding that he departed from his terms of reference.

(2) The provisions of sub-art. (1) shall apply where it is reasonable to admit that, in the circumstances, the principal would have extended the scope of the agent's authority, had he been aware of the situation.

(3) The agent may not require the principal to ratify where, before acting, he had the possibility of securing authority from the principal or where, after having acted, he omitted forthwith to inform the principal.

Section 2. Duties of agent

Art. 2208. - Strict good faith.

(1) The agent shall act with the strictest good faith towards his principal.

(2) He shall disclose to his principal any circumstance which would justify the revocation of the agency or a variation of its terms.

Art. 2209. - Effect.

(1) The agent shall act in the exclusive interest of the principal and may not, without the latter's knowledge, derive any benefit from any transaction into which he enters in pursuance of his authority.

(2) He may not make use to the detriment of the principal of any information obtained by him in the performance of his duties as agent.

Art. 2210. - Accounts.

(1) The agent shall account to the principal for all sums received by him and all profits accruing to him in the course of his employment, notwithstanding that the sums he received were not owed to the principal.

(2) Where the agent converted to his own use monies he owed to the principal, he shall be liable for the payment of interest as from the day of such use, without it being necessary that notice be given to him.

Art. 2211. - Diligence required of agent.

(1) The agent shall exercise the same diligence as a bonus pater familias in carrying out the agency as long as he is entrusted therewith.

(2) He shall be liable for fraud and for defaults in the performance of his duties.

(3) Whosoever undertakes without consideration to act as an agent shall not be liable unless he has not applied to the affairs of the principal the same degree of care as to his own.

Art. 2212. - Non-liability of agent.

(1) Unless otherwise agreed, the agent, notwithstanding that he acted in his own name, shall not be liable to the principal for the performance of the obligation of the person with whom he contracted.

(2) The provisions of sub-art. (1) shall not apply where he contracted with a person whose insolvency he knew or ought to have known at the time of the making of the contract.

Art. 2213. - Duty to account.
(1) The agent shall at any time account to the principal at his request for his management of affairs.

(2) He shall inform his principal without delay that he has accomplished his agency.

Art. 2214. - Approval of management.

(1) The principal shall be deemed to have approved the management of the agent where, after having received from him a statement there-upon, he remains silent for a longer period than warranted by the nature of the affair or usage.

(2) The provisions of sub-art. (1) shall apply notwithstanding that the agent departed from the instructions he received or exceeded the scope of his authority.


(1) The agent shall carry out the agency in person unless he was authorised by the principal to appoint a substitute.

(2) Such authorisation shall be implied where from usage it appears a matter of indifference whether the agent acts personally or by deputy.

(3) The agent shall appoint a substitute, where the interest of the principal so requires, when unforeseen circumstances prevent him from carrying out the agency and he is unable to inform the principal of these circumstances.


(1) The agent shall be liable for the acts of any person whom he appointed without authorisation as his substitute as if they were his own.

(2) Where the agent has been authorised to appoint a substitute, he shall be liable only for the care with which he selected his substitute and gave him instructions.

Art. 2217. - 3. Relationship between the principal and the substituted agent.

(1) The relationship between the principal and the substituted agent shall be as though the substituted agent had received authority to act as agent directly from the principal, where the substituted agent had reasons to believe that the agent was authorised to appoint a substitute.

(2) In the contrary case, the provisions of Art. 2257-2265 shall apply.

Art. 2218. - Plurality of agents.

(1) Unless otherwise agreed, where several persons have been appointed as agents by the same instrument, the contract of agency shall not be effective unless it has been accepted by all the persons concerned.

(2) Where several persons have been appointed as agents by the same instrument, only the acts done by them jointly shall bind the principal, unless otherwise agreed.

Section 3. Duties of principal

Art. 2219. - Contractual remuneration.

(1) The agent shall be entitled to the remuneration fixed in the contract.

(2) The court may reduce the remuneration fixed in the contract where it appears excessive and out of proportion to the services rendered by the agent.

Art. 2220. - Remuneration not fixed by contract.
(1) In the absence of a stipulation in the contract, the agent shall not be entitled to remuneration unless he carried out the agency within the scope of his professional duties or where such remuneration is customary.

(2) Failing agreement between the parties, the court shall fix the remuneration in conformity with recognised rates and usage.

Art. 2221. - Outlays and expenses.

(1) The principal shall advance to the agent the sums necessary for carrying out the agency.

(2) He shall reimburse outlays made and expenses incurred by the agent in the proper carrying out of the agency.

(3) Interest on such outlays and expenses shall be due by the principal as from the day when they were incurred without it being necessary to place the principal in default.

Art. 2222. - Liabilities and damages.

(1) The principal shall release the agent from any liabilities which he incurred in the interest of the principal.

(2) He shall be liable to the agent for any damage he sustained in the course of the carrying out of the agency and which was not due to his own default.

Art. 2223. - Set-off.

(1) The principal may not refuse to pay the sums due by him to the agent under the pretext that the transaction was unsuccessful.

(2) He may set-off these sums against those owed to him by the agent, in particular by reason of the latter’s default in the performance of the agency.

Art. 2224. - Agent’s lien.

Until the payment of the sums due to him by reason of the agency, the agent shall have a lien on the objects entrusted to him by the principal for the carrying out of the agency.

Art. 2225. - Plurality of principals.

Where the agent has been appointed by several principals for a common affair, the principals shall be jointly liable to the agent for all the consequences of the contract.

Section 4. Termination of agency

Art. 2226. - Revocation of agency.

(1) The principal may revoke the agency at his discretion and, where appropriate, compel the agent to restore to him the written instrument evidencing, his authority.

(2) Any provision to the contrary shall be of no effect.

Art. 2227. - Effect of revocation.

(1) The principal shall indemnify the agent for any damage caused to him by the revocation where such revocation occurs prior to the agreed date or under conditions detrimental to the agent.

(2) The principal shall incur no liability where the date was agreed upon in his own interest exclusively or he has a just motive for revocation.
Art. 2228. - Plurality of principals.

(1) Where the agent has been appointed by several principals for a common affair, the revocation of the agent may be effected only by all the principals.

(2) One of the principals may not without the others' consent revoke the common agent unless such revocation is founded upon a just motive.

Art. 2229. - Renunciation of agent.

(1) The agent may renounce the agency by giving notice to the principal of his renunciation.

(2) Where such renunciation is detrimental to the principal, he shall be indemnified by the agent unless the latter cannot continue the performance of the agency without himself suffering considerable loss.

Art. 2230. - Death or incapacity of agent.

(1) Unless otherwise agreed, a contract of agency shall terminate by the death of the agent or where he is declared absent, becomes incapable or is adjudicated a bankrupt.

(2) The heirs or the legal representative of the agent who are aware of the agency shall inform the principal of these circumstances without delay.

(3) They shall, until such time as the necessary steps can be taken by the principal, do whatever is required in the circumstances to safeguard the principal's interests.

Art. 2231. - Plurality of agents.

(1) Where several agents have been appointed for the same affair and are required to act jointly, any cause of termination of the agency occurring in respect of the person of one of the agents shall terminate the authority of all, unless otherwise agreed.

(2) The other agents shall notify the principal upon becoming aware of the cause of termination of the agency and shall in the meantime do whatever is required in the circumstances to safeguard the principal's interests.

Art. 2232. - Death or incapacity of principal.

(1) Unless otherwise agreed, a contract of agency shall terminate by the death of the principal or where he is declared absent, becomes incapable or is adjudicated a bankrupt.

(2) The agent shall in such event continue his management where he had commenced it and there is no danger in delay until the heirs or the legal representative of the principal are in a position to take it over themselves.

Section 5. Effect of agency as regards third parties

Art. 2233. Application of rules on representation.

The legal relations of principal, agent and third parties shall be subject to the provisions of Chapter 1 of this Title (Art. 2179-2198).

Chapter 3. Commission

Section 1. Commission to buy or to sell

Art. 2234. - Definition.
(1) The commission to buy or to sell is a contract of agency whereby the agent, called the commission agent, undertakes to buy or to sell in his own name but on behalf of another person, called the principal, goods, securities or other fungible things.

(2) The rules governing agency shall apply to this contract subject to such special provisions and exceptions as are laid down in this Section.

Art. 2235. - Measures of preservation.

(1) The commission agent shall take all necessary steps for the preservation of the goods sent to him on behalf of the principal and safeguard the latter's rights against the carrier when the goods seem to have been damaged or their arrival has been delayed.

(2) He shall forthwith notify these incidents to the principal, as well as the fact that the goods have not arrived.

(3) Such duties shall be carried out by a person notwithstanding that he has not accepted the commission, where the commission falls within his professional activity.

Art. 2236. - Sale of goods.

Where there is a risk that the goods consigned for sale will quickly deteriorate, the commission agent may and, where it is in the interest of the principal, shall have them sold with the assistance of the competent authorities at the place of their location.

Art. 2237. - Anticipated payment.

The commission agent shall act at his own risk where, without the principal's consent, he pays the seller before delivery has taken place.

Art. 2238. - Sale on credit.

(1) The commission agent may grant time for payment to the buyer where such is the custom of trade at the place of sale and the principal has not given him contrary instructions.

(2) The commission agent who grants time for payment shall inform the principal as to the person of the buyer and the period of time granted for payment.

(3) Failing such notification by the commission agent, the transaction shall be deemed to be made on a cash basis and the provisions of the following Article shall apply.

Art. 2239. - Unauthorised credit.

(1) Where the commission agent grants time for payment contrary to the instructions of the principal or usage, the principal may demand immediate payment.

(2) In such a case, the commission agent may retain the benefits he received in granting time for payment.

Art. 2240. - Guarantee given by commission agent.

(1) The commission agent shall be liable to the principal for the payment or the performance of other obligations by the persons with whom he contracted where he acted as del credere agent.

(2) Unless otherwise agreed, a commission agent entrusted with the purchase or sale of securities shall be deemed to be a del credere agent.

(3) A commission agent entrusted with the purchase or sale of goods shall be deemed to be a del credere agent where such is the custom of trade in the place where he resides or where he guaranteed the solvency of the persons with whom...
he contracted.

Art. 2241. - Del credere agent.

(1) The del credere commission agent is a guarantor jointly liable with the person with whom he contracted.

(2) He shall in all cases be liable to the principal for the performance of the contract he entered into unless non-performance was due to the principal's default.

Art. 2242. - Insurance.

The commission agent shall not be bound to insure the goods unless the principal instructed him to do so.

Art. 2243. - Remuneration of commission agent.

(1) Where the remuneration of the commission agent has not been agreed upon between the parties, it shall be fixed in accordance with the custom of the place where the contract was entered into by the commission agent.

(2) Failing such custom, the court shall fix it on the basis of equity having regard to the work performed by the commission agent, the expenses he incurred and the risks he assumed.

(3) Where he acted as del credere agent, the commission agent shall be entitled to a special remuneration to be fixed under the terms of the contract or in accordance with usage or equity.

Art. 2244. - When remuneration is due.

(1) The commission agent shall be entitled to his remuneration for a specific transaction entrusted to him where the transaction is completed or where failure to complete it is due to a reason attributable to the principal.

(2) He shall not be entitled thereto where the transaction was not completed for other reasons, subject to any contrary usage in the place of his professional activity.

Art. 2245. - Forfeiture of right to remuneration.

(1) The right to remuneration shall be forfeited where the commission agent acts dishonestly towards the principal.

(2) It shall be forfeited in particular where he pretends that he purchased at a higher price or sold at a lower price than he actually did.

Art. 2246. - Outlays and advances.

(1) The commission agent shall be entitled to be reimbursed with interest all outlays and advances made by him in good faith to carry out the transactions entrusted to him by the principal.

(2) Unless otherwise agreed, such reimbursement shall be due to him notwithstanding that the transaction entrusted to him could not be effected.

Art. 2247. - Lien.

(1) The commission agent shall have a lien for the payment of the sums due to him by the principal.

(2) He may exercise this right on all goods in his possession which he was instructed to buy or to sell on behalf of the principal.

(3) He may exercise it on the monies he received from a buyer for the principal.

Art. 2248. - Dealings on own account.
(1) The commission agent entrusted with the sale or purchase of goods quoted on the Stock Exchange or having a market value may, in the absence of contrary instructions by the principal, effect the transaction as a third party on his own account and conclude the contract with himself.

(2) In such a case, he shall remain entitled to the remuneration agreed upon or resulting from usage.

(3) The price fixed for the transaction may not be less than the price intimated to him by the principal nor than the price quoted on the Stock Exchange or the market price.

Art. 2249. - Presumption.

Where the commission agent who is himself entitled to act as buyer or seller notifies the principal of the carrying out of a transaction without naming the person with whom he contracted, he shall be deemed to have assumed the obligations of buyer or seller on his own account.

Art. 2250. - Termination of commission.

The commission shall not terminate where the principal or the commission agent dies, becomes incapable or is declared absent where the heirs or representatives of the principal or commission agent continue his commercial activity.

Section 2. Forwarding agency

Art. 2251. - Forwarding agency.

(1) The forwarding agency is a contract of agency where by the agent, called the commission agent, shipper or forwarding agent, undertakes to enter in his own name but on behalf of another person, called the principal, into a contract for the forwarding of goods.

(2) The rules governing the contract of commission to buy or to sell shall apply to this contract.

Art. 2252. - Insurance and dealings on own account.

(1) Unless otherwise agreed, the forwarding agent shall not be bound to insure the goods.

(2) He may himself undertake to effect their transport.

(3) In such a case, he shall have the same rights and duties as a carrier.

Chapter 4. Authority granted by the court

Art. 2253. - Principle.

The authority to do an act or acts of a certain kind on behalf of another may be given by the court to a person hereinafter called the curator.

Art. 2254. - Application for appointment.

(1) An application for the appointment of a curator may be made to the court by a relative or by the spouse of the person to be represented.

(2) It may be made by no other person.

Art. 2255. - Decision of the court.

(1) The court shall not grant the application unless the person to be represented is not in a position to appoint an agent by
reason of his being away, ill or for any other cause.

(2) The court shall authorise the curator it appoints to carry out such acts as are of an urgent nature.

(3) The court shall make such order as it thinks fit to safeguard the interests of the person represented and to ensure that the curator will execute any sentence that may he passed upon him in relation to his liabilities to the person represented.

Art. 2256. - Effect.

(1) The curator appointed by the court shall as soon as possible inform the person whom he represents of his appointment.

(2) The respective rights and obligations of the person represented and the curator appointed by the court shall be subject to the provisions of Chapter 2 of this Title (Art. 2199-2233).

Chapter 5. Unauthorised agency

Art. 2257. - Scope of application.

Unauthorised agency occurs where a person who has no authority to do so undertakes with full knowledge of the facts to manage another person's affairs without having been appointed an agent.

Art. 2258. - Management against principal's will.

(1) Where the management was undertaken against the principal's will, the provisions relating to unlawful enrichment and, where appropriate, those relating to extra-contractual liability shall apply (Art. 2027-2178).

(2) The provisions of this Chapter shall not apply in such a case unless the principal ratifies the acting person's management.

Art. 2259. - Management not undertaken in the principal's interest.

(1) Where the management was undertaken by the acting person in his own interest and not in that of the principal, the provisions relating to unlawful enrichment and, where appropriate, those relating to extra-contractual liability shall apply (Art. 2027-2178).

(2) The provisions of this Chapter shall apply where the acting person managed the other party's affair at the same time as his own by reason of the fact that both affairs were so closely connected together that one of them could not be managed separately.

Art. 2260. - Duties of acting person.

(1) The acting person shall as soon as possible inform the principal concerned in the affair that he has undertaken the management.

(2) He shall continue the management undertaken by him and bring it to completion as long as the principal concerned in the affair is not in a position to take it over himself.

(3) He shall be subjected to the same rules as an agent as regards the duty to render accounts (Art. 2213 and 2214).

Art. 2261. - Diligence and liability.

(1) The acting person shall manage the affair he has undertaken with the same care as a bonus paterfamilias.

(2) The court may, having regard to the circumstances that induced him to undertake the management, reduce the damages to which he maybe liable owing to his default.
Art. 2262. - Disability of acting person.

Where the acting person was under a disability as to contracting, he shall only be liable to the extent of his enrichment or the benefits with which he parted in breach of good faith.

Art. 2263. - Good faith.

(1) The acting person shall act with the strictest good faith towards the principal.

(2) The provisions governing agency shall apply in this respect (Art.2208-2212).

Art. 2264. - Duties of principal.

(1) Where the principal's interest required that the management be undertaken, he shall ratify the acts done by the acting person in his name.

(2) He shall indemnify the acting person for all liabilities he personally undertook, reimburse him the expenses incurred in his interest and compensate him for any damage he suffered in connection with the management and not due to his default.

(3) Expenses made by the acting person shall produce interest as from the day they were made without it being necessary that the principal be placed in default.

Art. 2265. - Effect of ratification.

Where the principal is bound by law to ratify the transaction or he in fact ratifies it, the provisions governing agency shall apply (Art. 2233).

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.2.1 - Contractual consent |
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| IV.5.3 - Interpretation in favor of effectiveness of contract |
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| VI.1 - Termination of contract in case of fundamental non-performance |
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VII.2 - Principle of foreseeability of loss
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IX.1 - Basic rule
XII.1 - Distribution of burden of proof