

Article 5 of the New Civil Code of the Philippines: A Comprehensive Analysis

Introduction

Article 5 of the New Civil Code of the Philippines represents a fundamental principle in Philippine civil law that governs the validity of acts executed in contravention of legal mandates^[1]. This provision states: "Acts executed against the provisions of mandatory or prohibitory laws shall be void, except when the law itself authorizes their validity" ^[1] ^[2]. The article serves as a cornerstone for determining the legal consequences of acts that violate statutory requirements and has been the subject of extensive jurisprudential development ^[3].

Legal Framework and Definitions

Mandatory vs. Prohibitory Laws

The Civil Code distinguishes between two types of laws that trigger the application of Article 5 ^[2] ^[3]:

Mandatory Laws are those that prescribe specific elements as requirements for legal acts^[2]. Examples include:

- The requirement that wills must be written (Article 804 of the Civil Code) ^[2]
- Prescribed forms for donations (Article 749) ^[2]
- Marriage solemnization requirements by authorized officiants ^[3]

Prohibitory Laws are those that forbid specific acts or transactions^[2]. Examples include:

- The prohibition against joint wills (Article 818) ^[2]
- Contracts for illegal purposes or against public policy ^[3]
- Usurious agreements that violate interest rate regulations ^[3]

General Rule: Absolute Nullity

Under the general principle established by Article 5, acts executed against mandatory or prohibitory laws are **void ab initio**, meaning they have no legal effect from the beginning ^[3]. These void acts cannot be ratified, validated, or given effect by the parties involved, as they are considered null and unenforceable ^[3]. No rights or obligations can arise from these acts, and they cannot serve as the basis for legal actions ^[3].

Exceptions to the General Rule

Article 5 recognizes four primary exceptions where acts violating mandatory or prohibitory laws may still have legal validity^[2] ^[4]:

1. Express Legislative Authorization

When the law itself explicitly authorizes the validity of otherwise prohibited acts^[2]. Examples include:

- Government-sanctioned lotteries and sweepstakes, which would otherwise constitute illegal gambling^[2]
- Licensed activities that would be prohibited without proper authorization^[4]

2. Voidable Rather Than Void Acts

When the law makes the act only voidable and not void, such as contracts where consent is vitiated by fraud, mistake, or duress^[2]. These contracts remain valid until successfully challenged in court^[4].

3. Valid Acts with Criminal Sanctions

When the law makes the act valid but punishes the violator^[2]. For instance, if a marriage is celebrated by someone without legal authority but the parties are in good faith, the marriage remains valid while the unauthorized officiant faces liability^[2].

4. Void Acts with Recognized Legal Effects

When the law makes the act void but recognizes certain legal effects flowing therefrom, as exemplified in Articles 1412 and 1413 of the Civil Code dealing with illegal contracts^[2] ^[4].

Recent Jurisprudential Developments

Spouses Cueno v. Spouses Bautista (2021)

The Supreme Court's recent decision in **G.R. No. 246445** provides significant clarification on the application of Article 5, particularly regarding the distinction between void and voidable contracts^[5]. The case involved the sale of conjugal property without spousal consent, raising questions about the interaction between Article 5 and specific provisions of the Civil Code^[5].

The Court emphasized that **Article 5 recognizes exceptions where "the law itself authorizes their validity"** ^[5]. In this context, the Court clarified that not all acts violating mandatory provisions are automatically void, particularly when the law provides specific remedies that suggest voidable rather than void status^[5].

UOB Philippines v. Board of Commissioners Case Study

In the **UOB Philippines v. Board of Commissioners** case, the Court addressed violations of Presidential Decree No. 957 regarding mortgage agreements executed without required HLURB approval^[4]. The Court applied Article 5 principles but limited the scope of invalidity to specific affected parties rather than declaring the entire agreement void^[4]. This demonstrates the principle that **invalidity should be appropriately limited to the scope of the violation**^[4].

Practical Applications and Examples

Contract Law Applications

Article 5 frequently applies in contractual relationships where parties attempt to circumvent mandatory legal requirements^[3]:

- **Real Estate Transactions:** Sales of real property that fail to comply with formal requirements may be void under Article 5^[3]
- **Corporate Transactions:** Acts by corporations that exceed their authorized powers or violate mandatory corporate law provisions^[3]
- **Labor Contracts:** Employment agreements that violate minimum wage laws or mandatory labor standards^[3]

Family Law Context

The article has significant implications in family law, particularly regarding:

- **Marriage Formalities:** Marriages that fail to comply with mandatory solemnization requirements^[3]
- **Property Relations:** Dispositions of conjugal or community property without required consents^[5]

Public Policy Considerations

Courts apply Article 5 strictly when contracts violate public policy, recognizing that **public policy represents the collective moral sense of society**^[3]. Contracts that offend public policy cannot be sanctioned by law and are typically declared void^[3].

Related Provisions and Interconnected Principles

Article 6: Waiver of Rights

Article 6 of the Civil Code complements Article 5 by stating that "Rights may be waived, unless the waiver is contrary to law, public order, public policy, morals, or good customs, or prejudicial to a third person with a right recognized by law"^[1]. This provision works in tandem with Article 5 to prevent parties from circumventing mandatory laws through private agreements^[6].

Article 1409: Void Contracts

Article 1409 provides a comprehensive list of void contracts, which must be read in conjunction with Article 5^[5]. The interaction between these provisions helps determine when specific violations result in absolute nullity versus other forms of invalidity^[5].

Constitutional Limitations

Article 5 must also be interpreted within the broader constitutional framework, particularly provisions regarding due process and equal protection^[7]. The Supreme Court has noted that administrative or executive acts are valid only when they are not contrary to laws or the Constitution^[8].

Contemporary Relevance and Current Applications

Digital Transactions and E-Commerce

Modern applications of Article 5 extend to digital transactions and e-commerce, where compliance with mandatory cybersecurity laws, data privacy requirements, and electronic signature statutes becomes crucial^[3]. Contracts that violate these modern mandatory provisions may face nullity under Article 5^[3].

Anti-Money Laundering Compliance

Financial transactions that violate Anti-Money Laundering Act requirements represent contemporary examples of acts that may be void under Article 5, as these laws contain both mandatory reporting requirements and prohibitory provisions^[3].

Environmental Law Violations

Contracts for activities that violate mandatory environmental protection laws may be subject to nullity under Article 5, reflecting the growing importance of environmental compliance in contractual relationships^[3].

Procedural Considerations

Burden of Proof

Parties seeking to invoke Article 5 must establish that the act in question violates a mandatory or prohibitory law^[4]. The burden lies on the party claiming nullity to demonstrate both the existence of the mandatory/prohibitory provision and the specific violation^[4].

Limitations on Collateral Attack

While void contracts under Article 5 are generally subject to collateral attack, courts have recognized that the scope of such attacks must be reasonable and focused on the specific nature of the violation^[4]. The **UOB Philippines** case illustrates this principle by limiting invalidity to affected portions rather than entire agreements^[4].

Prescription and Imprescriptibility

Actions arising from void acts under Article 5 are generally **imprescriptible**, as void acts are treated as if they never existed^[3]. However, this principle must be balanced against specific statutory remedies that may impose time limitations^[5].

Comparative Analysis with Family Code Provisions

The Civil Code's approach under Article 5 differs significantly from the Family Code's treatment of similar violations^[5]. While Article 166 of the Civil Code creates voidable contracts when conjugal property is disposed of without spousal consent, Articles 96 and 124 of the Family Code explicitly declare such acts **null and void**^[5]. This evolution demonstrates the legislature's intent to strengthen protections in family relations^[5].

Conclusion

Article 5 of the New Civil Code remains a vital provision for determining the validity of legal acts in the Philippines^[1] ^[3]. Its application requires careful analysis of whether violated provisions are truly mandatory or prohibitory, and whether the specific circumstances fall within recognized exceptions^[2] ^[5]. Recent Supreme Court decisions, particularly **Spouses Cueno v. Spouses Bautista**, have clarified the interaction between Article 5 and other Civil Code provisions, emphasizing that not all violations of mandatory laws result in absolute void status^[5].

The continued relevance of Article 5 in modern legal practice, from traditional contract disputes to contemporary issues involving digital transactions and regulatory compliance, underscores its fundamental importance in Philippine civil law^[3]. Legal practitioners must remain vigilant in analyzing the specific nature of legal violations and the intended consequences under both Article 5 and related statutory provisions^[3].

For comprehensive law review studies, students and practitioners should focus on the evolving jurisprudence surrounding Article 5, particularly the Supreme Court's recent clarifications regarding the distinction between void and voidable acts, and the practical application of the exceptions recognized under this foundational provision^[5] ^[4] ^[3].



1. [https://amslaw.ph/philippine-laws/civil-law/civil-code-of-the-philippines\(1\)](https://amslaw.ph/philippine-laws/civil-law/civil-code-of-the-philippines(1))
2. <https://attykalibre.com/question-and-answer/civil-law/civil-code-of-the-philippines/civil-code-of-the-philippines-art-5/>
3. <https://www.respicio.ph/bar/2025/civil-law/preliminary-title/effect-and-application-of-laws/nullity-of-acts-committed-in-violation-of-mandatory-or-prohibitory-laws-exceptions>
4. <https://www.studocu.com/ph/document/xavier-university-ateneo-de-cagayan/juris-doctor/civil-code-articles-5-10-notes-cases/101143935>
5. https://lawphil.net/judjuris/juri2021/mar2021/gr_246445_2021.html
6. <https://www.lawyer-philippines.com/articles/legal-inquiry-regarding-provisions-5-and-9-a-comprehensive-discussion-on-philippine-law>
7. <https://lawphil.net/consti/cons1987.html>

8. <https://chanrobes.com/civilcodeofthephilippines1.htm>