REPUBLIC ACT NO. 386

REPUBLIC ACT NO. 386 - AN ACT TO ORDAIN AND INSTITUTE THE CIVIL CODE OF THE PHILIPPINES

Preliminary Title - Book I - Book III - Book IV

BOOK II

Property, Ownership, and its Modifications

TITLE I

Classification of Property

PRELIMINARY PROVISIONS

ARTICLE 414. All things which are or may be the object of appropriation are considered either:

(1) Immovable or real property; or

(2) Movable or personal property. (333)

CHAPTER 1

Immovable Property

ARTICLE 415. The following are immovable property:

(1) Land, buildings, roads and constructions of all kinds adhered to the soil;

(2) Trees, plants, and growing fruits, while they are attached to the land or form an integral part of an immovable;

(3) Everything attached to an immovable in a fixed manner, in such a way that it cannot be separated therefrom without breaking the material or deterioration of the object;

(4) Statues, reliefs, paintings or other objects for use or ornamentation, placed in buildings or on lands by the owner of the immovable in such a manner that it reveals the intention to attach them permanently to the tenements;

(5) Machinery, receptacles, instruments or implements intended by the owner of the tenement for an industry or works which may be carried on in a building or on a piece of land, and which tend directly to meet the needs of the said industry or works;

(6) Animal houses, pigeon-houses, beehives, fish ponds or breeding places of similar nature, in case their owner has placed them or preserves them with the intention to have them permanently attached to the land, and forming a permanent part of it; the animals in these places are included;

(7) Fertilizer actually used on a piece of land;

(8) Mines, quarries, and slag dumps, while the matter thereof forms part of the bed, and waters either running or stagnant;

(9) Docks and structures which, though floating, are intended by their nature and object to remain at a fixed place on a river, lake, or coast;

(10) Contracts for public works, and servitudes and other real rights over immovable property. (334a)

CHAPTER 2

Movable Property

ARTICLE 416. The following things are deemed to be personal property:

(1) Those movables susceptible of appropriation which are not included in the preceding article;

(2) Real property which by any special provision of law is considered as personalty;

(3) Forces of nature which are brought under control by science; and

(4) In general, all things which can be transported from place to place without impairment of the real property to which they are fixed. (335a)

ARTICLE 417. The following are also considered as personal property:

(1) Obligations and actions which have for their object movables or demandable sums; and

(2) Shares of stock of agricultural, commercial and industrial entities, although they may have real estate. (336a)

ARTICLE 418. Movable property is either consumable or nonconsumable. To the first class belong those movables which cannot be used in a manner appropriate to their nature without their being consumed; to the second class belong all the others. (337)

CHAPTER 3

Property in Relation to the Person to Whom It Belongs

ARTICLE 419. Property is either of public dominion or of private ownership. (338)

ARTICLE 420. The following things are property of public dominion:

(1) Those intended for public use, such as roads, canals, rivers, torrents, ports and bridges constructed by the State, banks, shores, roadsteads, and others of similar character;

(2) Those which belong to the State, without being for public use, and are intended for some public service or for the development of the national wealth. (339a)

ARTICLE 421. All other property of the State, which is not of the character stated in the preceding article, is patrimonial property. (340a)

ARTICLE 422. Property of public dominion, when no longer intended for public use or for public service, shall form part of the patrimonial property of the State. (341a)

ARTICLE 423. The property of provinces, cities, and municipalities is divided into property for public use and patrimonial property. (343)

ARTICLE 424. Property for public use, in the provinces, cities, and municipalities, consist of the provincial roads, city streets, municipal streets, the squares, fountains, public waters, promenades, and public works for public service paid for by said provinces, cities, or municipalities.

All other property possessed by any of them is patrimonial and shall be governed by this Code, without prejudice to the provisions of special laws.

(344a)

ARTICLE 425. Property of private ownership, besides the patrimonial property of the State, provinces, cities, and municipalities, consists of all property belonging to private persons, either individually or collectively. (345a)

Provisions Common to the Three Preceding Chapters

ARTICLE 426. Whenever by provision of the law, or an individual declaration, the expression "immovable things or property," or "movable things or property," is used, it shall be deemed to include, respectively, the things enumerated in Chapter 1 and Chapter 2.

Whenever the word "muebles," or "furniture," is used alone, it shall not be deemed to include money, credits, commercial securities, stocks and bonds, jewelry, scientific or artistic collections, books, medals, arms, clothing, horses or carriages and their accessories, grains, liquids and merchandise, or other things which do not have as their principal object the furnishing or ornamenting of a building, except where from the context of the law, or the individual declaration, the contrary clearly appears. (346a)

TITLE II
Ownership

CHAPTER 1
Ownership in General

ARTICLE 427. Ownership may be exercised over things or rights. (n)

ARTICLE 428. The owner has the right to enjoy and dispose of a thing, without other limitations than those established by law.

The owner has also a right of action against the holder and possessor of the thing in order to recover it. (348a)

ARTICLE 429. The owner or lawful possessor of a thing has the right to exclude any person from the enjoyment and disposal thereof. For this purpose, he may use such force as may be reasonably necessary to repel or prevent an actual or threatened unlawful physical invasion or usurpation of his property. (n)

ARTICLE 430. Every owner may enclose or fence his land or tenements by means of walls, ditches, live or dead hedges, or by any other means without detriment to servitudes constituted thereon. (388)

ARTICLE 431. The owner of a thing cannot make use thereof in such manner as to injure the rights of a third person. (n)

ARTICLE 432. The owner of a thing has no right to prohibit the interference of another with the same, if the interference is necessary to avert an imminent danger and the threatened damage, compared to the damage arising to the owner from the interference, is much greater. The owner may demand from the person benefited indemnity for the damage to him. (n)

ARTICLE 433. Actual possession under claim of ownership raises disputable presumption of ownership. The true owner must resort to judicial process for the recovery of the property. (n)

ARTICLE 434. In an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim. (n)

ARTICLE 435. No person shall be deprived of his property except by competent authority and for public use and always upon payment of just compensation.

Should this requirement be not first complied with, the courts shall protect and, in a proper case, restore the owner in his possession. (349a)

ARTICLE 436. When any property is condemned or seized by competent authority in the interest of health, safety or security, the owner thereof shall not be entitled to compensation, unless he can show that such condemnation or seizure is unjustified. (n)

ARTICLE 437. The owner of a parcel of land is the owner of its surface and of everything under it, and he can construct thereon any works or make any plantations and excavations which he may deem proper, without detriment to servitudes and subject to special laws and ordinances. He cannot complain of the reasonable requirements of aerial navigation. (350a)

ARTICLE 438. Hidden treasure belongs to the owner of the land, building, or other property on which it is found.

Nevertheless, when the discovery is made on the property of another, or of the State or any of its subdivisions, and by chance, one-half thereof shall be allowed to the finder. If the finder is a trespasser, he shall not be entitled to any share of the treasure.

If the things found be of interest to science or the arts, the State may acquire them at their just price, which shall be divided in conformity with the rule

stated. (351a)

ARTICLE 439. By treasure is understood, for legal purposes, any hidden and unknown deposit of money, jewelry, or other precious objects, the lawful ownership of which does not appear. (352)

CHAPTER 2
Right of Accession

GENERAL PROVISIONS

ARTICLE 440. The ownership of property gives the right by accession to everything which is produced thereby, or which is incorporated or attached thereto, either naturally or artificially. (353)

Section 1
Right of Accession with Respect to What is Produced by Property

ARTICLE 441. To the owner belongs:

(1) The natural fruits;

(2) The industrial fruits;

(3) The civil fruits. (354)

ARTICLE 442. Natural fruits are the spontaneous products of the soil, and the young and other products of animals.

Industrial fruits are those produced by lands of any kind through cultivation or labor.

Civil fruits are the rents of buildings, the price of leases of lands and other property and the amount of perpetual or life annuities or other similar income. (355a)

ARTICLE 443. He who receives the fruits has the obligation to pay the expenses made by a third person in their production, gathering, and preservation. (356)

ARTICLE 444. Only such as are manifest or born are considered as natural or industrial fruits.

With respect to animals, it is sufficient that they are in the womb of the mother, although unborn. (357)

Sec. 2
Right of Accession with Respect to Immovable Property

ARTICLE 445. Whatever is built, planted or sown on the land of another and the improvements or repairs made thereon, belong to the owner of the land, subject to the provisions of the following articles. (358)

ARTICLE 446. All works, sowing, and planting are presumed made by the owner and at his expense, unless the contrary is proved. (359)

ARTICLE 447. The owner of the land who makes thereon, personally or through another, plantings, constructions or works with the materials of another, shall pay their value; and, if he acted in bad faith, he shall also be obliged to the reparation of damages. The owner of the materials shall have the right to remove them only in case he can do so without injury to the work constructed, or without the plantings, constructions or works being destroyed. However, if the landowner acted in bad faith, the owner of the materials may remove them in any event, with a right to be indemnified for damages. (360a)

ARTICLE 448. The owner of the land on which anything has been built, sown or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity provided for in articles 546 and 548, or to oblige the one who built or planted to pay the price of the land, and the one who sowed, the proper rent. However, the builder or planter cannot be obliged to buy the land if its value is considerably more than that of the building or trees. In such case, he shall pay reasonable rent, if the owner of the land does not choose to appropriate the building or trees after proper indemnity. The parties shall agree upon the terms of the lease and in case of disagreement, the court shall fix the terms thereof. (361a)

ARTICLE 449. He who builds, plants or sows in bad faith on the land of another, loses what is built, planted or sown without right to indemnity. (362)

ARTICLE 450. The owner of the land on which anything has been built, planted or sown in bad faith may demand the demolition of the work, or that the planting or sowing be removed, in order to replace things in their former condition at the expense of the person who built, planted or sowed; or he may compel the builder or planter to pay the price of the land, and the sower the proper rent. (363a)

ARTICLE 451. In the cases of the two preceding articles, the landowner is entitled to damages from the builder, planter or sower. (n)

ARTICLE 452. The builder, planter or sower in bad faith is entitled to reimbursement for the necessary expenses of preservation of the land. (n)

ARTICLE 453. If there was bad faith, not only on the part of the person who built, planted or sowed on the land of another, but also on the part of the owner of such land, the rights of one and the other shall be the same as though both had acted in good faith.

It is understood that there is bad faith on the part of the landowner whenever the act was done with his knowledge and without opposition on his part. (364a)

ARTICLE 454. When the landowner acted in bad faith and the builder, planter or sower proceeded in good faith, the provisions of article 447 shall apply. (n)

ARTICLE 455. If the materials, plants or seeds belong to a third person who has not acted in bad faith, the owner of the land shall answer subsidiarily for their value and only in the event that the one who made use of them has no property with which to pay.

This provision shall not apply if the owner makes use of the right granted by article 450. If the owner of the materials, plants or seeds has been paid by the builder, planter or sower, the latter may demand from the landowner the value of the materials and labor. (365a)

ARTICLE 456. In the cases regulated in the preceding articles, good faith does not necessarily exclude negligence, which gives right to damages under article 2176. (n)

ARTICLE 457. To the owners of lands adjoining the banks of rivers belong the accretion which they gradually receive from the effects of the current of the waters. (336)

ARTICLE 458. The owners of estates adjoining ponds or lagoons do not acquire the land left dry by the natural decrease of the waters, or lose that inundated by them in extraordinary floods. (367)

ARTICLE 459. Whenever the current of a river, creek or torrent segregates from an estate on its bank a known portion of land and transfers it to another estate, the owner of the land to which the segregated portion belonged retains the ownership of it, provided that he removes the same within two years. (368a)

ARTICLE 460. Trees uprooted and carried away by the current of the waters belong to the owner of the land upon which they may be cast, if the owners do not claim them within six months. If such owners claim them, they shall pay the expenses incurred in gathering them or putting them in a safe place. (369a)

ARTICLE 461. River beds which are abandoned through the natural change in the course of the waters ipso facto belong to the owners whose lands are occupied by the new course in proportion to the area lost. However, the owners of the lands adjoining the old bed shall have the right to acquire the same by paying the value thereof, which value shall not exceed the value of the area occupied by the new bed. (370a)

ARTICLE 462. Whenever a river, changing its course by natural causes, opens a new bed through a private estate, this bed shall become of public dominion. (372a)

ARTICLE 463. Whenever the current of a river divides itself into branches, leaving a piece of land or part thereof isolated, the owner of the land retains his ownership. He also retains it if a portion of land is separated from the estate by the current. (374)

ARTICLE 464. Islands which may be formed on the seas within the jurisdiction of the Philippines, on lakes, and on navigable or floatable rivers belong to the State. (371a)

ARTICLE 465. Islands which through successive accumulation of alluvial deposits are formed in non-navigable and non-floatable rivers, belong to the owners of the margins or banks nearest to each of them, or to the owners of both margins if the island is in the middle of the river, in which case it shall be divided longitudinally in halves. If a single island thus formed be more distant from one margin than from the other, the owner of the nearer margin shall be the sole owner thereof. (373a)

Sec. 3

Right of Accession with Respect to Movable Property

ARTICLE 466. Whenever two movable things belonging to different owners are, without bad faith, united in such a way that they form a single object, the owner of the principal thing acquires the accessory, indemnifying the former owner thereof for its value. (375)

ARTICLE 467. The principal thing, as between two things incorporated, is deemed to be that to which the other has been united as an ornament, or for its use or perfection. (376)

ARTICLE 468. If it cannot be determined by the rule given in the preceding article which of the two things incorporated is the principal one, the thing of the greater value shall be so considered, and as between two things of equal value, that of the greater volume.

In painting and sculpture, writings, printed matter, engraving and lithographs, the board, metal, stone, canvas, paper or parchment shall be deemed the accessory thing. (377)

ARTICLE 469. Whenever the things united can be separated without injury, their respective owners may demand their separation.

Nevertheless, in case the thing united for the use, embellishment or perfection of the other, is much more precious than the principal thing, the owner of the former may demand its separation, even though the thing to which it has been incorporated may suffer some injury. (378)

ARTICLE 470. Whenever the owner of the accessory thing has made the incorporation in bad faith, he shall lose the thing incorporated and shall have the obligation to indemnify the owner of the principal thing for the damages he may have suffered.

If the one who has acted in bad faith is the owner of the principal thing, the owner of the accessory thing shall have a right to choose between the former paying him its value or that the thing belonging to him be separated, even though for this purpose it be necessary to destroy the principal thing; and in both cases, furthermore, there shall be indemnity for damages.

If either one of the owners has made the incorporation with the knowledge and without the objection of the other, their respective rights shall be determined as though both acted in good faith. (379a)

ARTICLE 471. Whenever the owner of the material employed without his consent has a right to an indemnity, he may demand that this consist in the delivery of a thing equal in kind and value, and in all other respects, to that employed, or else in the price thereof, according to expert appraisal. (380)

ARTICLE 472. If by the will of their owners two things of the same or different kinds are mixed, or if the mixture occurs by chance, and in the latter case the things are not separable without injury, each owner shall acquire a right proportional to the part belonging to him, bearing in mind the value of the things mixed or confused. (381)

ARTICLE 473. If by the will of only one owner, but in good faith, two things of the same or different kinds are mixed or confused, the rights of the owners shall be determined by the provisions of the preceding article.

If the one who caused the mixture or confusion acted in bad faith, he shall lose the thing belonging to him thus mixed or confused, besides being obliged to pay indemnity for the damages caused to the owner of the other thing with which his own was mixed. (382)

ARTICLE 474. One who in good faith employs the material of another in whole or in part in order to make a thing of a different kind, shall appropriate the thing thus transformed as his own, indemnifying the owner of the material for its value.

If the material is more precious than the transformed thing or is of more value, its owner may, at his option, appropriate the new thing to himself, after first paying indemnity for the value of the work, or demand indemnity for the material.

If in the making of the thing bad faith intervened, the owner of the material shall have the right to appropriate the work to himself without paying anything to the maker, or to demand of the latter that he indemnify him for the value of the material and the damages he may have suffered. However, the owner of the material cannot appropriate the work in case the value of the latter, for artistic or scientific reasons, is considerably more than that of the material. (383a)

ARTICLE 475. In the preceding articles, sentimental value shall be duly appreciated. (n)

CHAPTER 3
Quieting of Title (n)

ARTICLE 476. Whenever there is a cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet the title.

An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein.

ARTICLE 477. The plaintiff must have legal or equitable title to, or interest in the real property which is the subject matter of the action. He need not be in possession of said property.

ARTICLE 478. There may also be an action to quiet title or remove a cloud therefrom when the contract, instrument or other obligation has been extinguished or has terminated, or has been barred by extinctive prescription.

ARTICLE 479. The plaintiff must return to the defendant all benefits he may have received from the latter, or reimburse him for expenses that may have redounded to the plaintiff's benefit.

ARTICLE 480. The principles of the general law on the quieting of title are hereby adopted insofar as they are not in conflict with this Code.

ARTICLE 481. The procedure for the quieting of title or the removal of a cloud therefrom shall be governed by such rules of court as the Supreme Court shall promulgated.

CHAPTER 4
Ruinous Buildings and Trees in Danger of Falling

ARTICLE 482. If a building, wall, column, or any other construction is in danger of falling, the owner shall be obliged to demolish it or to execute the necessary work in order to prevent it from falling.

If the proprietor does not comply with this obligation, the administrative authorities may order the demolition of the structure at the expense of the owner, or take measures to insure public safety. (389a)

ARTICLE 483. Whenever a large tree threatens to fall in such a way as to cause damage to the land or tenement of another or to travelers over a public or private road, the owner of the tree shall be obliged to fell and remove it; and should he not do so, it shall be done at his expense by order of the administrative authorities. (390a)

TITLE III
Co-ownership

ARTICLE 484. There is co-ownership whenever the ownership of an undivided thing or right belongs to different persons.

In default of contracts, or of special provisions, co-ownership shall be governed by the provisions of this Title. (392)

ARTICLE 485. The share of the co-owners, in the benefits as well as in the charges, shall be proportional to their respective interests. Any stipulation in a contract to the contrary shall be void.

The portions belonging to the co-owners in the co-ownership shall be presumed equal, unless the contrary is proved. (393a)

ARTICLE 486. Each co-owner may use the thing owned in common, provided he does so in accordance with the purpose for which it is intended and in such a way as not to injure the interest of the co-ownership or prevent the other co-owners from using it according to their rights. The purpose of the co-ownership may be changed by agreement, express or implied. (394a)

ARTICLE 487. Any one of the co-owners may bring an action in ejectment. (n)

ARTICLE 488. Each co-owner shall have a right to compel the other co-owners to contribute to the expenses of preservation of the thing or right owned in common and to the taxes. Any one of the latter may exempt himself from this obligation by renouncing so much of his undivided interest as may be equivalent to his share of the expenses and taxes. No such waiver shall be made if it is prejudicial to the co-ownership. (395a)

ARTICLE 489. Repairs for preservation may be made at the will of one of the co-owners, but he must, if practicable, first notify his co-owners of the necessity for such repairs. Expenses to improve or embellish the thing shall be decided upon by a majority as determined in article 492. (n)

ARTICLE 490. Whenever the different storeys of a house belong to different owners, if the titles of ownership do not specify the terms under which they should contribute to the necessary expenses and there exists no agreement on the subject, the following rules shall be observed:

(1) The main and party walls, the roof and the other things used in common, shall be preserved at the expense of all the owners in proportion to the value of the story belonging to each;

(2) Each owner shall bear the cost of maintaining the floor of his story; the floor of the entrance, front door, common yard and sanitary works common to all, shall be maintained at the expense of all the owners pro rata;

(3) The stairs from the entrance to the first story shall be maintained at the expense of all the owners pro rata, with the exception of the owner of the ground floor; the stairs from the first to the second story shall be preserved at the expense of all, except the owner of the ground floor and the owner of the first story; and so on successively. (396)

ARTICLE 491. None of the co-owners shall, without the consent of the others, make alterations in the thing owned in common, even though benefits for all would result therefrom. However, if the withholding of the consent by one or more of the co-owners is clearly prejudicial to the common interest, the courts may afford adequate relief. (397a)

ARTICLE 492. For the administration and better enjoyment of the thing owned in common, the resolutions of the majority of the co-owners shall be binding.

There shall be no majority unless the resolution is approved by the co-owners who represent the controlling interest in the object of the co-ownership.

Should there be no majority, or should the resolution of the majority be seriously prejudicial to those interested in the property owned in common, the court, at the instance of an interested party, shall order such measures as it may deem proper, including the appointment of an administrator.

Whenever a part of the thing belongs exclusively to one of the co-owners, and the remainder is owned in common, the preceding provision shall apply only to the part owned in common. (398)

ARTICLE 493. Each co-owner shall have the full ownership of his part and of the fruits and benefits pertaining thereto, and he may therefore alienate, assign or mortgage it, and even substitute another person in its enjoyment, except when personal rights are involved. But the effect of the alienation or the mortgage, with respect to the co-owners, shall be limited to the portion which may be allotted to him in the division upon the termination of the co-ownership. (399)

ARTICLE 494. No co-owner shall be obliged to remain in the co-ownership. Each co-owner may demand at any time the partition of the thing owned in common, insofar as his share is concerned.

Nevertheless, an agreement to keep the thing undivided for a certain period of time, not exceeding ten years, shall be valid. This term may be extended by a new agreement.

A donor or testator may prohibit partition for a period which shall not exceed twenty years.

Neither shall there be any partition when it is prohibited by law.

No prescription shall run in favor of a co-owner or co-heir against his co-owners or co-heirs so long as he expressly or impliedly recognizes the co-ownership. (400a)

ARTICLE 495. Notwithstanding the provisions of the preceding article, the co-owners cannot demand a physical division of the thing owned in common, when to do so would render it unserviceable for the use for which it is intended. But the co-ownership may be terminated in accordance with article 498. (401a)

ARTICLE 496. Partition may be made by agreement between the parties or by judicial proceedings. Partition shall be governed by the Rules of Court insofar as they are consistent with this Code. (402)

ARTICLE 497. The creditors or assignees of the co-owners may take part in the division of the thing owned in common and object to its being effected without their concurrence. But they cannot impugn any partition already executed, unless there has been fraud, or in case it was made notwithstanding a formal opposition presented to prevent it, without prejudice to the right of the debtor or assignor to maintain its validity. (403)

ARTICLE 498. Whenever the thing is essentially indivisible and the co-owners cannot agree that it be allotted to one of them who shall indemnify the others, it shall be sold and its proceeds distributed. (404)

ARTICLE 499. The partition of a thing owned in common shall not prejudice third persons, who shall retain the rights of mortgage, servitude or any other real rights belonging to them before the division was made. Personal rights pertaining to third persons against the co-ownership shall also remain in force, notwithstanding the partition. (405)

ARTICLE 500. Upon partition, there shall be a mutual accounting for benefits received and reimbursements for expenses made. Likewise, each co-owner shall pay for damages caused by reason of his negligence or fraud. (n)

ARTICLE 501. Every co-owner shall, after partition, be liable for defects of title and quality of the portion assigned to each of the other co-owners. (n)

TITLE IV
Some Special Properties

CHAPTER 1
Waters

Section 1
Ownership of Waters

ARTICLE 502. The following are of public dominion:

(1) Rivers and their natural beds;

(2) Continuous or intermittent waters of springs and brooks running in their natural beds and the beds themselves;

(3) Waters rising continuously or intermittently on lands of public dominion;

(4) Lakes and lagoons formed by Nature on public lands, and their beds;

(5) Rain waters running through ravines or sand beds, which are also of public dominion;

(6) Subterranean waters on public lands;

(7) Waters found within the zone of operation of public works, even if constructed by a contractor;

(8) Waters rising continuously or intermittently on lands belonging to private persons, to the State, to a province, or to a city or a municipality from the moment they leave such lands;

(9) The waste waters of fountains, sewers and public establishments. (407)

ARTICLE 503. The following are of private ownership:

(1) Continuous or intermittent waters rising on lands of private ownership, while running through the same;

(2) Lakes and lagoons, and their beds, formed by Nature on such lands;

(3) Subterranean waters found on the same;

(4) Rain waters falling on said lands, as long as they remain within the boundaries;

(5) The beds of flowing waters, continuous or intermittent, formed by rain water, and those of brooks, crossing lands which are not of public dominion.

In every drain or aqueduct, the water, bed, banks and floodgates shall be considered as an integral part of the land of building for which the waters are intended. The owners of lands, through which or along the boundaries of which the aqueduct passes, cannot claim ownership over it, or any right to the use of its bed or banks, unless the claim is based on titles of ownership specifying the right or ownership claimed. (408)

Sec. 2
The Use of Public Waters

ARTICLE 504. The use of public waters is acquired:

(1) By administrative concession;

(2) By prescription for ten years.

The extent of the rights and obligations of the use shall be that established, in the first case, by the terms of the concession, and, in the second case, by the manner and form in which the waters have been used. (409a)

ARTICLE 505. Every concession for the use of waters is understood to be without prejudice to third persons. (410)

ARTICLE 506. The right to make use of public waters is extinguished by the lapse of the concession and by non-user for five years. (411a)

Sec. 3
The Use of Waters of Private Ownership

ARTICLE 507. The owner of a piece of land on which a spring or brook rises, be it continuous or intermittent, may use its waters while they run through the same, but after the waters leave the land they shall become public, and their use shall be governed by the Special Law of Waters of August 3, 1866, and by the Irrigation Law. (412a)

ARTICLE 508. The private ownership of the beds of rain waters does not give a right to make works or constructions which may change their course to the damage of third persons, or whose destruction, by the force of floods, may cause such damage. (413)

ARTICLE 509. No one may enter private property to search waters or make use of them without permission from the owners, except as provided by the Mining Law. (414a)

ARTICLE 510. The ownership which the proprietor of a piece of land has over the waters rising thereon does not prejudice the rights which the owners of lower estates may have legally acquired to the use thereof. (415)

ARTICLE 511. Every owner of a piece of land has the right to construct within his property, reservoirs for rain waters, provided he causes no damage to the public or to third persons. (416)

Sec. 4
Subterranean Waters

ARTICLE 512. Only the owner of a piece of land, or another person with his permission, may make explorations thereon for subterranean waters, except as provided by the Mining Law.

Explorations for subterranean waters on lands of public dominion may be made only with the permission of the administrative authorities. (417a)

ARTICLE 513. Waters artificially brought forth in accordance with the Special Law of Waters of August 3, 1866, belong to the person who brought them up. (418)

ARTICLE 514. When the owner of waters artificially brought to the surface abandons them to their natural course, they shall become of public dominion. (419)

Sec. 5
General Provisions

ARTICLE 515. The owner of a piece of land on which there are defensive works to check waters, or on which, due to a change of their course, it may be necessary to reconstruct such works, shall be obliged, at his election, either to make the necessary repairs or construction himself, or to permit them to be done, without damage to him, by the owners of the lands which suffer or are clearly exposed to suffer injury. (420)

ARTICLE 516. The provisions of the preceding article are applicable to the case in which it may be necessary to clear a piece of land of matter, whose accumulation or fall may obstruct the course of the waters, to the damage or peril of third persons. (421)

ARTICLE 517. All the owners who participate in the benefits arising from the works referred to in the two preceding articles, shall be obliged to contribute to the expenses of construction in proportion to their respective interests. Those who by their fault may have caused the damage shall be liable for the expenses. (422)

ARTICLE 518. All matters not expressly determined by the provisions of this Chapter shall be governed by the Special Law of Waters of August 3, 1866, and by the Irrigation Law. (425a)

CHAPTER 2
Minerals

ARTICLE 519. Mining claims and rights and other matters concerning minerals and mineral lands are governed by special laws. (427a)

CHAPTER 3
Trade-marks and Trade-names

ARTICLE 520. A trade-mark or trade-name duly registered in the proper government bureau or office is owned by and pertains to the person, corporation, or firm registering the same, subject to the provisions of special laws. (n)

ARTICLE 521. The goodwill of a business is property, and may be transferred together with the right to use the name under which the business is conducted. (n)

ARTICLE 522. Trade-marks and trade-names are governed by special laws. (n)

TITLE V
Possession

CHAPTER 1
Possession and the Kinds Thereof

ARTICLE 523. Possession is the holding of a thing or the enjoyment of a right. (430a)

ARTICLE 524. Possession may be exercised in one's own name or in that of another. (413a)

ARTICLE 525. The possession of things or rights may be had in one of two concepts: either in the concept of owner, or in that of the holder of the thing or right to keep or enjoy it, the ownership pertaining to another person. (432)

ARTICLE 526. He is deemed a possessor in good faith who is not aware that there exists in his title or mode of acquisition any flaw which invalidates it.

He is deemed a possessor in bad faith who possesses in any case contrary to the foregoing.

Mistake upon a doubtful or difficult question of law may be the basis of good faith. (433a)

ARTICLE 527. Good faith is always presumed, and upon him who alleges bad faith on the part of a possessor rests the burden of proof. (434)

ARTICLE 528. Possession acquired in good faith does not lose this character except in the case and from the moment facts exist which show that the possessor is not unaware that he possesses the thing improperly or wrongfully. (435a)

ARTICLE 529. It is presumed that possession continues to be enjoyed in the same character in which it was acquired, until the contrary is proved. (436)

ARTICLE 530. Only things and rights which are susceptible of being appropriated may be the object of possession. (437)

CHAPTER 2

Acquisition of Possession

ARTICLE 531. Possession is acquired by the material occupation of a thing or the exercise of a right, or by the fact that it is subject to the action of our will, or by the proper acts and legal formalities established for acquiring such right. (438a)

ARTICLE 532. Possession may be acquired by the same person who is to enjoy it, by his legal representative, by his agent, or by any person without any power whatever: but in the last case, the possession shall not be considered as acquired until the person in whose name the act of possession was executed has ratified the same, without prejudice to the juridical consequences of negotiorum gestio in a proper case. (439a)

ARTICLE 533. The possession of hereditary property is deemed transmitted to the heir without interruption and from the moment of the death of the decedent, in case the inheritance is accepted.

One who validly renounces an inheritance is deemed never to have possessed the same. (440)

ARTICLE 534. On who succeeds by hereditary title shall not suffer the consequences of the wrongful possession of the decedent, if it is not shown that he was aware of the flaws affecting it; but the effects of possession in good faith shall not benefit him except from the date of death of the decedent. (442)

ARTICLE 535. Minors and incapacitated persons may acquire the possession of things; but they need the assistance of their legal representatives in order to exercise the rights which from the possession arise in their favor. (443)

ARTICLE 536. In no case may possession be acquired through force or intimidation as long as there is a possessor who objects thereto. He who believes that he has an action or a right to deprive another of the holding of a thing, must invoke thed of the competent court, if the holder should refuse to deliver the thing. (441a)

ARTICLE 537. Acts merely tolerated, and those executed clandestinely and without the knowledge of the possessor of a thing, or by violence, do not affect possession. (444)

ARTICLE 538. Possession as a fact cannot be recognized at the same time in two different personalities except in the cases of co-possession. Should a question arise regarding the fact of possession, the present possessor shall be preferred; if there are two possessors, the one longer in possession; if the dates of the possession are the same, the one who presents a title; and if all these conditions are equal, the thing shall be placed in judicial deposit pending determination of its possession or ownership through proper proceedings. (445)

CHAPTER 3

Effects of Possession

ARTICLE 539. Every possessor has a right to be respected in his possession; and should he be disturbed therein he shall be protected in or restored to said possession by the means established by the laws and the Rules of Court.

A possessor deprived of his possession through forcible entry may within ten days from the filing of the complaint present a motion to secure from the competent court, in the action for forcible entry, a writ of preliminary mandatory injunction to restore him in his possession. The court shall decide the motion within thirty (30) days from the filing thereof. (446a)

ARTICLE 540. Only the possession acquired and enjoyed in the concept of owner can serve as a title for acquiring dominion. (447)

ARTICLE 541. A possessor in the concept of owner has in his favor the legal presumption that he possesses with a just title and he cannot be obliged to show or prove it. (448a)

ARTICLE 542. The possession of real property presumes that of the movables therein, so long as it is not shown or proved that they should be

excluded. (449)

ARTICLE 543. Each one of the participants of a thing possessed in common shall be deemed to have exclusively possessed the part which may be allotted to him upon the division thereof, for the entire period during which the co-possession lasted. Interruption in the possession of the whole or a part of a thing possessed in common shall be to the prejudice of all the possessors. However, in case of civil interruption, the Rules of Court shall apply. (450a)

ARTICLE 544. A possessor in good faith is entitled to the fruits received before the possession is legally interrupted.

Natural and industrial fruits are considered received from the time they are gathered or severed.

Civil fruits are deemed to accrue daily and belong to the possessor in good faith in that proportion. (451)

ARTICLE 545. If at the time the good faith ceases, there should be any natural or industrial fruits, the possessor shall have a right to a part of the expenses of cultivation, and to a part of the net harvest, both in proportion to the time of the possession.

The charges shall be divided on the same basis by the two possessors.

The owner of the thing may, should he so desire, give the possessor in good faith the right to finish the cultivation and gathering of the growing fruits, as an indemnity for his part of the expenses of cultivation and the net proceeds; the possessor in good faith who for any reason whatever should refuse to accept this concession, shall lose the right to be indemnified in any other manner. (452a)

ARTICLE 546. Necessary expenses shall be refunded to every possessor; but only the possessor in good faith may retain the thing until he has been reimbursed therefor.

Useful expenses shall be refunded only to the possessor in good faith with the same right of retention, the person who has defeated him in the possession having the option of refunding the amount of the expenses or of paying the increase in value which the thing may have acquired by reason thereof. (453a)

ARTICLE 547. If the useful improvements can be removed without damage to the principal thing, the possessor in good faith may remove them, unless the person who recovers the possession exercises the option under paragraph 2 of the preceding article. (n)

ARTICLE 548. Expenses for pure luxury or mere pleasure shall not be refunded to the possessor in good faith; but he may remove the ornaments with which he has embellished the principal thing if it suffers no injury thereby, and if his successor in the possession does not prefer to refund the amount expended. (454)

ARTICLE 549. The possessor in bad faith shall reimburse the fruits received and those which the legitimate possessor could have received, and shall have a right only to the expenses mentioned in paragraph 1 of article 546 and in article 443. The expenses incurred in improvements for pure luxury or mere pleasure shall not be refunded to the possessor in bad faith, but he may remove the objects for which such expenses have been incurred, provided that the thing suffers no injury thereby, and that the lawful possessor does not prefer to retain them by paying the value they may have at the time he enters into possession. (445a)

ARTICLE 550. The costs of litigation over the property shall be borne by every possessor. (n)

ARTICLE 551. Improvements caused by nature or time shall always inure to the benefit of the person who has succeeded in recovering possession. (456)

ARTICLE 552. A possessor in good faith shall not be liable for the deterioration or loss of the thing possessed, except in cases in which it is proved that he has acted with fraudulent intent or negligence, after the judicial summons.

A possessor in bad faith shall be liable for deterioration or loss in every case, even if caused by a fortuitous event. (457a)

ARTICLE 553. One who recovers possession shall not be obliged to pay for improvements which have ceased to exist at the time he takes possession of the thing. (458)

ARTICLE 554. A present possessor who shows his possession at some previous time, is presumed to have held possession also during the intermediate period, in the absence of proof to the contrary. (459)

ARTICLE 555. A possessor may lose his possession:

(1) By the abandonment of the thing;

(2) By an assignment made to another either by onerous or gratuitous title;

(3) By the destruction or total loss of the thing, or because it goes out of commerce;

(4) By the possession of another, subject to the provisions of article 537, if the new possession has lasted longer than one year. But the real right of possession is not lost till after the lapse of ten years. (460a)

ARTICLE 556. The possession of movables is not deemed lost so long as they remain under the control of the possessor, even though for the time being he may not know their whereabouts. (461)

ARTICLE 557. The possession of immovables and of real rights is not deemed lost, or transferred for purposes of prescription to the prejudice of third persons, except in accordance with the provisions of the Mortgage Law and the Land Registration laws. (462a)

ARTICLE 558. Acts relating to possession, executed or agreed to by one who possesses a thing belonging to another as a mere holder to enjoy or keep it, in any character, do not bind or prejudice the owner, unless he gave said holder express authority to do such acts, or ratifies them subsequently. (463)

ARTICLE 559. The possession of movable property acquired in good faith is equivalent to a title. Nevertheless, one who has lost any movable or has been unlawfully deprived thereof, may recover it from the person in possession of the same.

If the possessor of a movable lost or which the owner has been unlawfully deprived, has acquired it in good faith at a public sale, the owner cannot obtain its return without reimbursing the price paid therefor. (464a)

ARTICLE 560. Wild animals are possessed only while they are under one's control; domesticated or tamed animals are considered domestic or tame if they retain the habit of returning to the premises of the possessor. (465)

ARTICLE 561. One who recovers, according to law, possession unjustly lost, shall be deemed for all purposes which may redound to his benefit, to have enjoyed it without interruption. (466)

TITLE VI
Usufruct

CHAPTER 1
Usufruct in General

ARTICLE 562. Usufruct gives a right to enjoy the property of another with the obligation of preserving its form and substance, unless the title constituting it or the law otherwise provides. (467)

ARTICLE 563. Usufruct is constituted by law, by the will of private persons expressed in acts inter vivos or in a last will and testament, and by prescription. (468)

ARTICLE 564. Usufruct may be constituted on the whole or a part of the fruits of the thing, in favor of one more persons, simultaneously or successively, and in every case from or to a certain day, purely or conditionally. It may also be constituted on a right, provided it is not strictly personal or intransmissible. (469)

ARTICLE 565. The rights and obligations of the usufructuary shall be those provided in the title constituting the usufruct; in default of such title, or in case it is deficient, the provisions contained in the two following Chapters shall be observed. (470)

CHAPTER 2
Rights of the Usufructuary

ARTICLE 566. The usufructuary shall be entitled to all the natural, industrial and civil fruits of the property in usufruct. With respect to hidden treasure which may be found on the land or tenement, he shall be considered a stranger. (471)

ARTICLE 567. Natural or industrial fruits growing at the time the usufruct begins, belong to the usufructuary.

Those growing at the time the usufruct terminates, belong to the owner.

In the preceding cases, the usufructuary, at the beginning of the usufruct, has no obligation to refund to the owner any expenses incurred; but the owner shall be obliged to reimburse at the termination of the usufruct, from the proceeds of the growing fruits, the ordinary expenses of cultivation, for seed, and other similar expenses incurred by the usufructuary.

The provisions of this article shall not prejudice the rights of third persons, acquired either at the beginning or at the termination of the usufruct. (472)

ARTICLE 568. If the usufructuary has leased the lands or tenements given in usufruct, and the usufruct should expire before the termination of the lease, he or his heirs and successors shall receive only the proportionate share of the rent that must be paid by the lessee. (473)

ARTICLE 569. Civil fruits are deemed to accrue daily, and belong to the usufructuary in proportion to the time the usufruct may last. (474).

ARTICLE 570. Whenever a usufruct is constituted on the right to receive a rent or periodical pension, whether in money or in fruits, or in the interest on bonds or securities payable to bearer, each payment due shall be considered as the proceeds or fruits of such right.

Whenever it consists in the enjoyment of benefits accruing from a participation in any industrial or commercial enterprise, the date of the distribution of which is not fixed, such benefits shall have the same character.

In either case they shall be distributed as civil fruits, and shall be applied in the manner prescribed in the preceding article. (475)

ARTICLE 571. The usufructuary shall have the right to enjoy any increase which the thing in usufruct may acquire through accession, the servitudes established in its favor, and, in general, all the benefits inherent therein. (479)

ARTICLE 572. The usufructuary may personally enjoy the thing in usufruct, lease it to another, or alienate his right of usufruct, even by a gratuitous title; but all the contracts he may enter into as such usufructuary shall terminate upon the expiration of the usufruct, saving leases of rural lands, which shall be considered as subsisting during the agricultural year. (480)

ARTICLE 573. Whenever the usufruct includes things which, without being consumed, gradually deteriorate through wear and tear, the usufructuary shall have the right to make use thereof in accordance with the purpose for which they are intended, and shall not be obliged to return them at the termination of the usufruct except in their condition at that time; but he shall be obliged to indemnify the owner for any deterioration they may have suffered by reason of his fraud or negligence. (481)

ARTICLE 574. Whenever the usufruct includes things which cannot be used without being consumed, the usufructuary shall have the right to make use of them under the obligation of paying their appraised value at the termination of the usufruct, if they were appraised when delivered. In case they were not appraised, he shall have the right to return the same quantity and quality, or pay their current price at the time the usufruct ceases. (482)

ARTICLE 575. The usufructuary of fruit-bearing trees and shrubs may make use of the dead trunks, and even of those cut off or uprooted by accident, under the obligation to replace them with new plants. (483a)

ARTICLE 576. If in consequence of a calamity or extraordinary event, the trees or shrubs shall have disappeared in such considerable number that it would not be possible or it would be too burdensome to replace them, the usufructuary may leave the dead, fallen or uprooted trunks at the disposal of the owner, and demand that the latter remove them and clear the land. (484a)

ARTICLE 577. The usufructuary of woodland may enjoy all the benefits which it may produce according to its nature.

If the woodland is a copse or consists of timber for building, the usufructuary may do such ordinary cutting or felling as the owner was in the habit of doing, and in default of this, he may do so in accordance with the custom of the place, as to the manner, amount and season.

In any case the felling or cutting of trees shall be made in such manner as not to prejudice the preservation of the land.

In nurseries, the usufructuary may make the necessary thinnings in order that the remaining trees may properly grow.

With the exception of the provisions of the preceding paragraphs, the usufructuary cannot cut down trees unless it be to restore or improve some of the things in usufruct, and in such case shall first inform the owner of the necessity for the work. (485)

ARTICLE 578. The usufructuary of an action to recover real property or a real right, or any movable property, has the right to bring the action and to oblige the owner thereof to give him the authority for this purpose and to furnish him whatever proof he may have. If in consequence of the enforcement of the action he acquires the thing claimed, the usufruct shall be limited to the fruits, the dominion remaining with the owner. (486)

ARTICLE 579. The usufructuary may make on the property held in usufruct such useful improvements or expenses for mere pleasure as he may deem proper, provided he does not alter its form or substance; but he shall have no right to be indemnified therefor. He may, however, remove such improvements, should it be possible to do so without damage to the property. (487)

ARTICLE 580. The usufructuary may set off the improvements he may have made on the property against any damage to the same. (488)

ARTICLE 581. The owner of property the usufruct of which is held by another, may alienate it, but he cannot alter its form or substance, or do anything thereon which may be prejudicial to the usufructuary. (489)

ARTICLE 582. The usufructuary of a part of a thing held in common shall exercise all the rights pertaining to the owner thereof with respect to the administration and the collection of fruits or interest. Should the co-ownership cease by reason of the division of the thing held in common, the usufruct of the part allotted to the co-owner shall belong to the usufructuary. (490)

CHAPTER 3

Obligations of the Usufructuary

ARTICLE 583. The usufructuary, before entering upon the enjoyment of the property, is obliged:

(1) To make, after notice to the owner or his legitimate representative, an inventory of all the property, which shall contain an appraisal of the movables and a description of the condition of the immovables;

(2) To give security, binding himself to fulfill the obligations imposed upon him in accordance with this Chapter. (491)

ARTICLE 584. The provisions of No. 2 of the preceding article shall not apply to the donor who has reserved the usufruct of the property donated, or to the parents who are usufructuaries of their children's property, except when the parents contract a second marriage. (492a)

ARTICLE 585. The usufructuary, whatever may be the title of the usufruct, may be excused from the obligation of making an inventory or of giving security, when no one will be injured thereby. (493)

ARTICLE 586. Should the usufructuary fail to give security in the cases in which he is bound to give it, the owner may demand that the immovables be placed under administration, that the movables be sold, that the public bonds, instruments of credit payable to order or to bearer be converted into registered certificates or deposited in a bank or public institution, and that the capital or sums in cash and the proceeds of the sale of the movable property be invested in safe securities.

The interest on the proceeds of the sale of the movables and that on public securities and bonds, and the proceeds of the property placed under administration, shall belong to the usufructuary.

Furthermore, the owner may, if he so prefers, until the usufructuary gives security or is excused from so doing, retain in his possession the property in usufruct as administrator, subject to the obligation to deliver to the usufructuary the net proceeds thereof, after deducting the sums which may be agreed upon or judicially allowed him for such administration. (494)

ARTICLE 587. If the usufructuary who has not given security claims, by virtue of a promise under oath, the delivery of the furniture necessary for his use, and that he and his family be allowed to live in a house included in the usufruct, the court may grant this petition, after due consideration of the facts of the case.

The same rule shall be observed with respect to implements, tools and other movable property necessary for an industry or vocation in which he is engaged.

If the owner does not wish that certain articles be sold because of their artistic worth or because they have a sentimental value, he may demand their delivery to him upon his giving security for the payment of the legal interest on their appraised value. (495)

ARTICLE 588. After the security has been given by the usufructuary, he shall have a right to all the proceeds and benefits from the day on which, in accordance with the title constituting the usufruct, he should have commenced to receive them. (496)

ARTICLE 589. The usufructuary shall take care of the things given in usufruct as a good father of a family. (497)

ARTICLE 590. A usufructuary who alienates or leases his right of usufruct shall answer for any damage which the things in usufruct may suffer through the fault or negligence of the person who substitutes him. (498)

ARTICLE 591. If the usufruct be constituted on a flock or herd of livestock, the usufructuary shall be obliged to replace with the young thereof the animals that die each year from natural causes, or are lost due to the rapacity of beasts of prey.

If the animals on which the usufruct is constituted should all perish, without the fault of the usufructuary, on account of some contagious disease or any other uncommon event, the usufructuary shall fulfill his obligation by delivering to the owner the remains which may have been saved from the misfortune.

Should the herd or flock perish in part, also by accident and without the fault of the usufructuary, the usufruct shall continue on the part saved.

Should the usufruct be on sterile animals, it shall be considered, with respect to its effects, as though constituted on fungible things. (499a)

ARTICLE 592. The usufructuary is obliged to make the ordinary repairs needed by the thing given in usufruct.

By ordinary repairs are understood such as are required by the wear and tear due to the natural use of the thing and are indispensable for its preservation. Should the usufructuary fail to make them after demand by the owner, the latter may make them at the expense of the usufructuary. (500)

ARTICLE 593. Extraordinary repairs shall be at the expense of the owner. The usufructuary is obliged to notify the owner when the need for such repairs

is urgent. (501)

ARTICLE 594. If the owner should make the extraordinary repairs, he shall have a right to demand of the usufructuary the legal interest on the amount expended for the time that the usufruct lasts.

Should he not make them when they are indispensable for the preservation of the thing, the usufructuary may make them; but he shall have a right to demand of the owner, at the termination of the usufruct, the increase in value which the immovable may have acquired by reason of the repairs. (502a)

ARTICLE 595. The owner may construct any works and make any improvements of which the immovable in usufruct is susceptible, or make new plantings thereon if it be rural, provided that such acts do not cause a diminution in the value of the usufruct or prejudice the right of the usufructuary. (503)

ARTICLE 596. The payment of annual charges and taxes and of those considered as a lien on the fruits, shall be at the expense of the usufructuary for all the time that the usufruct lasts. (504)

ARTICLE 597. The taxes which, during the usufruct, may be imposed directly on the capital, shall be at the expense of the owner.

If the latter has paid them, the usufructuary shall pay him the proper interest on the sums which may have been paid in that character; and, if the said sums have been advanced by the usufructuary, he shall recover the amount thereof at the termination of the usufruct. (505)

ARTICLE 598. If the usufruct be constituted on the whole of a patrimony, and if at the time of its constitution the owner has debts, the provisions of articles 758 and 759 relating to donations shall be applied, both with respect to the maintenance of the usufruct and to the obligation of the usufructuary to pay such debts.

The same rule shall be applied in case the owner is obliged, at the time the usufruct is constituted, to make periodical payments, even if there should be no known capital. (506)

ARTICLE 599. The usufructuary may claim any matured credits which form a part of the usufruct if he has given or gives the proper security. If he has been excused from giving security or has not been able to give it, or if that given is not sufficient, he shall need the authorization of the owner, or of the court in default thereof, to collect such credits.

The usufructuary who has given security may use the capital he has collected in any manner he may deem proper. The usufructuary who has not given security shall invest the said capital at interest upon agreement with the owner; in default of such agreement, with judicial authorization; and, in every case, with security sufficient to preserve the integrity of the capital in usufruct. (507)

ARTICLE 600. The usufructuary of a mortgaged immovable shall not be obliged to pay the debt for the security of which the mortgage was constituted.

Should the immovable be attached or sold judicially for the payment of the debt, the owner shall be liable to the usufructuary for whatever the latter may lose by reason thereof. (509)

ARTICLE 601. The usufructuary shall be obliged to notify the owner of any act of a third person, of which he may have knowledge, that may be prejudicial to the rights of ownership, and he shall be liable should he not do so, for damages, as if they had been caused through his own fault. (511)

ARTICLE 602. The expenses, costs and liabilities in suits brought with regard to the usufruct shall be borne by the usufructuary. (512)

CHAPTER 4
Extinguishment of Usufruct

ARTICLE 603. Usufruct is extinguished:

(1) By the death of the usufructuary, unless a contrary intention clearly appears;

(2) By the expiration of the period for which it was constituted, or by the fulfillment of any resolutory condition provided in the title creating the usufruct;

(3) By merger of the usufruct and ownership in the same person;

(4) By renunciation of the usufructuary;

(5) By the total loss of the thing in usufruct;

(6) By the termination of the right of the person constituting the usufruct;

(7) By prescription. (513a)

ARTICLE 604. If the thing given in usufruct should be lost only in part, the right shall continue on the remaining part. (514)

ARTICLE 605. Usufruct cannot be constituted in favor of a town, corporation, or association for more than fifty years. If it has been constituted, and before the expiration of such period the town is abandoned, or the corporation or association is dissolved, the usufruct shall be extinguished by reason thereof. (515a)

ARTICLE 606. A usufruct granted for the time that may elapse before a third person attains a certain age, shall subsist for the number of years specified, even if the third person should die before the period expires, unless such usufruct has been expressly granted only in consideration of the existence of such person. (516)

ARTICLE 607. If the usufruct is constituted on immovable property of which a building forms part, and the latter should be destroyed in any manner whatsoever, the usufructuary shall have a right to make use of the land and the materials.

The same rule shall be applied if the usufruct is constituted on a building only and the same should be destroyed. But in such a case, if the owner should wish to construct another building, he shall have a right to occupy the land and to make use of the materials, being obliged to pay to the usufructuary, during the continuance of the usufruct, the interest upon the sum equivalent to the value of the land and of the materials. (517)

ARTICLE 608. If the usufructuary shares with the owner the insurance of the tenement given in usufruct, the former shall, in case of loss, continue in the enjoyment of the new building, should one be constructed, or shall receive the interest on the insurance indemnity if the owner does not wish to rebuild.

Should the usufructuary have refused to contribute to the insurance, the owner insuring the tenement alone, the latter shall receive the full amount of the insurance indemnity in case of loss, saving always the right granted to the usufructuary in the preceding article. (518a)

ARTICLE 609. Should the thing in usufruct be expropriated for public use, the owner shall be obliged either to replace it with another thing of the same value and of similar conditions, or to pay the usufructuary the legal interest on the amount of the indemnity for the whole period of the usufruct. If the owner chooses the latter alternative, he shall give security for the payment of the interest. (519)

ARTICLE 610. A usufruct is not extinguished by bad use of the thing in usufruct; but if the abuse should cause considerable injury to the owner, the latter may demand that the thing be delivered to him, binding himself to pay annually to the usufructuary the net proceeds of the same, after deducting the expenses and the compensation which may be allowed him for its administration. (520)

ARTICLE 611. A usufruct constituted in favor of several persons living at the time of its constitution shall not be extinguished until the death of the last survivor. (521)

ARTICLE 612. Upon the termination of the usufruct, the thing in usufruct shall be delivered to the owner, without prejudice to the right of retention pertaining to the usufructuary or his heirs for taxes and extraordinary expenses which should be reimbursed. After the delivery has been made, the security or mortgage shall be cancelled. (522a)

TITLE VII
Easements of Servitudes

CHAPTER 1
Easements in General

Section 1
Different Kinds of Easements

ARTICLE 613. An easement or servitude is an encumbrance imposed upon an immovable for the benefit of another immovable belonging to a different owner.

The immovable in favor of which the easement is established is called the dominant estate; that which is subject thereto, the servient estate. (530)

ARTICLE 614. Servitudes may also be established for the benefit of a community, or of one or more persons to whom the encumbered estate does not belong. (531)

ARTICLE 615. Easements may be continuous or discontinuous, apparent or nonapparent.

Continuous easements are those the use of which is or may be incessant, without the intervention of any act of man.

Discontinuous easements are those which are used at intervals and depend upon the acts of man.

Apparent easements are those which are made known and are continually kept in view by external signs that reveal the use and enjoyment of the same.

Nonapparent easements are those which show no external indication of their existence. (532)

ARTICLE 616. Easements are also positive or negative.

A positive easement is one which imposes upon the owner of the servient estate the obligation of allowing something to be done or of doing it himself, and a negative easement, that which prohibits the owner of the servient estate from doing something which he could lawfully do if the easement did not exist. (533)

ARTICLE 617. Easements are inseparable from the estate to which they actively or passively belong. (534)

ARTICLE 618. Easements are indivisible. If the servient estate is divided between two or more persons, the easement is not modified, and each of them must bear it on the part which corresponds to him.

If it is the dominant estate that is divided between two or more persons, each of them may use the easement in its entirety, without changing the place of its use, or making it more burdensome in any other way. (535)

ARTICLE 619. Easements are established either by law or by the will of the owners. The former are called legal and the latter voluntary easements. (536)

Sec. 2

Modes of Acquiring Easements

ARTICLE 620. Continuous and apparent easements are acquired either by virtue of a title or by prescription of ten years. (537a)

ARTICLE 621. In order to acquire by prescription the easements referred to in the preceding article, the time of possession shall be computed thus: in positive easements, from the day on which the owner of the dominant estate, or the person who may have made use of the easement, commenced to exercise it upon the servient estate; and in negative easements, from the day on which the owner of the dominant estate forbade, by an instrument acknowledged before a notary public, the owner of the servient estate, from executing an act which would be lawful without the easement. (538a)

ARTICLE 622. Continuous nonapparent easements, and discontinuous ones, whether apparent or not, may be acquired only by virtue of a title. (539)

ARTICLE 623. The absence of a document or proof showing the origin of an easement which cannot be acquired by prescription may be cured by a deed of recognition by the owner of the servient estate or by a final judgment. (540a)

ARTICLE 624. The existence of an apparent sign of easement between two estates, established or maintained by the owner of both, shall be considered, should either of them be alienated, as a title in order that the easement may continue actively and passively, unless, at the time the ownership of the two estates is divided, the contrary should be provided in the title of conveyance of either of them, or the sign aforesaid should be removed before the execution of the deed. This provision shall also apply in case of the division of a thing owned in common by two or more persons. (541a)

ARTICLE 625. Upon the establishment of an easement, all the rights necessary for its use are considered granted. (542)

ARTICLE 626. The owner of the dominant estate cannot use the easement except for the benefit of the immovable originally contemplated. Neither can he exercise the easement in any other manner than that previously established. (n)

Sec. 3

Rights and Obligations of the Owners of the Dominant and Servient Estates

ARTICLE 627. The owner of the dominant estate may make, at his own expense, on the servient estate any works necessary for the use and preservation of the servitude, but without altering it or rendering it more burdensome.

For this purpose he shall notify the owner of the servient estate, and shall choose the most convenient time and manner so as to cause the least inconvenience to the owner of the servient estate. (543a)

ARTICLE 628. Should there be several dominant estates, the owners of all of them shall be obliged to contribute to the expenses referred to in the preceding article, in proportion to the benefits which each may derive from the work. Any one who does not wish to contribute may exempt himself by renouncing the easement for the benefit of the others.

If the owner of the servient estate should make use of the easement in any manner whatsoever, he shall also be obliged to contribute to the expenses in the proportion stated, saving an agreement to the contrary. (544)

ARTICLE 629. The owner of the servient estate cannot impair, in any manner whatsoever, the use of the servitude.

Nevertheless, if by reason of the place originally assigned, or of the manner established for the use of the easement, the same should become very inconvenient to the owner of the servient estate, or should prevent him from making any important works, repairs or improvements thereon, it may be changed at his expense, provided he offers another place or manner equally convenient and in such a way that no injury is caused thereby to the owner of the dominant estate or to those who may have a right to the use of the easement. (545)

ARTICLE 630. The owner of the servient estate retains the ownership of the portion on which the easement is established, and may use the same in such a manner as not to affect the exercise of the easement. (n)

Sec. 4
Modes of Extinguishment of Easements

ARTICLE 631. Easements are extinguished:

(1) By merger in the same person of the ownership of the dominant and servient estates;

(2) By nonuser for ten years; with respect to discontinuous easements, this period shall be computed from the day on which they ceased to be used; and, with respect to continuous easements, from the day on which an act contrary to the same took place;

(3) When either or both of the estates fall into such condition that the easement cannot be used; but it shall revive if the subsequent condition of the estates or either of them should again permit its use, unless when the use becomes possible, sufficient time for prescription has elapsed, in accordance with the provisions of the preceding number;

(4) By the expiration of the term or the fulfillment of the condition, if the easement is temporary or conditional;

(5) By the renunciation of the owner of the dominant estate;

(6) By the redemption agreed upon between the owners of the dominant and servient estates. (546a)

ARTICLE 632. The form or manner of using the easement may prescribe as the easement itself, and in the same way. (547a)

ARTICLE 633. If the dominant estate belongs to several persons in common, the use of the easement by any one of them prevents prescription with respect to the others. (548)

CHAPTER 2
Legal Easements

Section 1
General Provisions

ARTICLE 634. Easements imposed by law have for their object either public use or the interest of private persons. (549)

ARTICLE 635. All matters concerning easements established for public or communal use shall be governed by the special laws and regulations relating thereto, and, in the absence thereof, by the provisions of this Title. (550)

ARTICLE 636. Easements established by law in the interest of private persons or for private use shall be governed by the provisions of this Title, without prejudice to the provisions of general or local laws and ordinances for the general welfare.

These easements may be modified by agreement of the interested parties, whenever the law does not prohibit it or no injury is suffered by a third person. (551a)

Sec. 2
Easements Relating to Waters

ARTICLE 637. Lower estates are obliged to receive the waters which naturally and without the intervention of man descend from the higher estates, as well as the stones or earth which they carry with them.

The owner of the lower estate cannot construct works which will impede this easement; neither can the owner of the higher estate make works which will increase the burden. (552)

ARTICLE 638. The banks of rivers and streams, even in case they are of private ownership, are subject throughout their entire length and within a zone of three meters along their margins, to the easement of public use in the general interest of navigation, floatage, fishing and salvage.

Estates adjoining the banks of navigable or floatable rivers are, furthermore, subject to the easement of towpath for the exclusive service of river navigation and floatage.

If it be necessary for such purpose to occupy lands of private ownership, the proper indemnity shall first be paid. (553a)

ARTICLE 639. Whenever for the diversion or taking of water from a river or brook, or for the use of any other continuous or discontinuous stream, it should be necessary to build a dam, and the person who is to construct it is not the owner of the banks, or lands which must support it, he may establish the easement of abutment of a dam, after payment of the proper indemnity. (554)

ARTICLE 640. Compulsory easements for drawing water or for watering animals can be imposed only for reasons of public use in favor of a town or village, after payment of the proper indemnity. (555)

ARTICLE 641. Easements for drawing water and for watering animals carry with them the obligation of the owners of the servient estates to allow passage to persons and animals to the place where such easements are to be used, and the indemnity shall include this service. (556)

ARTICLE 642. Any person who may wish to use upon his own estate any water of which he can dispose shall have the right to make it flow through the intervening estates, with the obligation to indemnify their owners, as well as the owners of the lower estates upon which the waters may filter or descend. (557)

ARTICLE 643. One desiring to make use of the right granted in the preceding article is obliged:

(1) To prove that he can dispose of the water and that it is sufficient for the use for which it is intended;

(2) To show that the proposed right of way is the most convenient and the least onerous to third persons;

(3) To indemnify the owner of the servient estate in the manner determined by the laws and regulations. (558)

ARTICLE 644. The easement of aqueduct for private interest cannot be imposed on buildings, courtyards, annexes, or outhouses, or on orchards or gardens already existing. (559)

ARTICLE 645. The easement of aqueduct does not prevent the owner of the servient estate from closing or fencing it, or from building over the aqueduct in such manner as not to cause the latter any damage, or render necessary repairs and cleanings impossible. (560)

ARTICLE 646. For legal purposes, the easement of aqueduct shall be considered as continuous and apparent, even though the flow of the water may not be continuous, or its use depends upon the needs of the dominant estate, or upon a schedule of alternate days or hours. (561)

ARTICLE 647. One who for the purpose of irrigating or improving his estate, has to construct a stop lock or sluice gate in the bed of the stream from which the water is to be taken, may demand that the owners of the banks permit its construction, after payment of damages, including those caused by the new easement to such owners and to the other irrigators. (562)

ARTICLE 648. The establishment, extent, form and conditions of the servitudes of waters, to which this section refers, shall be governed by the special laws relating thereto insofar as no provision therefor is made in this Code. (563a)

Sec. 3
Easement of Right of Way

ARTICLE 649. The owner, or any person who by virtue of a real right may cultivate or use any immovable, which is surrounded by other immovables pertaining to other persons and without adequate outlet to a public highway, is entitled to demand a right of way through the neighboring estates, after payment of the proper indemnity.

Should this easement be established in such a manner that its use may be continuous for all the needs of the dominant estate, establishing a permanent passage, the indemnity shall consist of the value of the land occupied and the amount of the damage caused to the servient estate.

In case the right of way is limited to the necessary passage for the cultivation of the estate surrounded by others and for the gathering of its crops through the servient estate without a permanent way, the indemnity shall consist in the payment of the damage caused by such encumbrance.

This easement is not compulsory if the isolation of the immovable is due to the proprietor's own acts. (564a)

ARTICLE 650. The easement of right of way shall be established at the point least prejudicial to the servient estate, and, insofar as consistent with this rule, where the distance from the dominant estate to a public highway may be the shortest. (565)

ARTICLE 651. The width of the easement of right of way shall be that which is sufficient for the needs of the dominant estate, and may accordingly be changed from time to time. (566a)

ARTICLE 652. Whenever a piece of land acquired by sale, exchange or partition, is surrounded by other estates of the vendor, exchanger, or co-owner, he shall be obliged to grant a right of way without indemnity.

In case of a simple donation, the donor shall be indemnified by the donee for the establishment of the right of way. (567a)

ARTICLE 653. In the case of the preceding article, if it is the land of the grantor that becomes isolated, he may demand a right of way after paying a indemnity. However, the donor shall not be liable for indemnity. (n)

ARTICLE 654. If the right of way is permanent, the necessary repairs shall be made by the owner of the dominant estate. A proportionate share of the taxes shall be reimbursed by said owner to the proprietor of the servient estate. (n)

ARTICLE 655. If the right of way granted to a surrounded estate ceases to be necessary because its owner has joined it to another abutting on a public road, the owner of the servient estate may demand that the easement be extinguished, returning what he may have received by way of indemnity. The interest on the indemnity shall be deemed to be in payment of rent for the use of the easement.

The same rule shall be applied in case a new road is opened giving access to the isolated estate.

In both cases, the public highway must substantially meet the needs of the dominant estate in order that the easement may be extinguished. (568a)

ARTICLE 656. If it be indispensable for the construction, repair, improvement, alteration or beautification of a building, to carry materials through the estate of another, or to raise therein scaffolding or other objects necessary for the work, the owner of such estate shall be obliged to permit the act, after receiving payment of the proper indemnity for the damage caused him. (569a)

ARTICLE 657. Easements of the right of way for the passage of livestock known as animal path, animal trail or any other, and those for watering places, resting places and animal folds, shall be governed by the ordinances and regulations relating thereto, and, in the absence thereof, by the usages and customs of the place.

Without prejudice to rights legally acquired, the animal path shall not exceed in any case the width of 75 meters, and the animal trail that of 37 meters and 50 centimeters.

Whenever it is necessary to establish a compulsory easement of the right of way or for a watering place for animals, the provisions of this Section and those of articles 640 and 641 shall be observed. In this case the width shall not exceed 10 meters. (570a)

Sec. 4
Easement of Party Wall

ARTICLE 658. The easement of party wall shall be governed by the provisions of this Title, by the local ordinances and customs insofar as they do not conflict with the same, and by the rules of co-ownership. (571a)

ARTICLE 659. The existence of an easement of party wall is presumed, unless there is a title, or exterior sign, or proof to the contrary:

(1) In dividing walls of adjoining buildings up to the point of common elevation;

(2) In dividing walls of gardens or yards situated in cities, towns, or in rural communities;

(3) In fences, walls and live hedges dividing rural lands. (572)

ARTICLE 660. It is understood that there is an exterior sign, contrary to the easement of party wall:

(1) Whenever in the dividing wall of buildings there is a window or opening;

(2) Whenever the dividing wall is, on one side, straight and plumb on all its facement, and on the other, it has similar conditions on the upper part, but the lower part slants or projects outward;

(3) Whenever the entire wall is built within the boundaries of one of the estates;

(4) Whenever the dividing wall bears the burden of the binding beams, floors and roof frame of one of the buildings, but not those of the others;

(5) Whenever the dividing wall between courtyards, gardens, and tenements is constructed in such a way that the coping sheds the water upon only one of the estates;

(6) Whenever the dividing wall, being built of masonry, has stepping stones, which at certain intervals project from the surface on one side only, but not on the other;

(7) Whenever lands inclosed by fences or live hedges adjoin others which are not inclosed.

In all these cases, the ownership of the walls, fences or hedges shall be deemed to belong exclusively to the owner of the property or tenement which has in its favor the presumption based on any one of these signs. (573)

ARTICLE 661. Ditches or drains opened between two estates are also presumed as common to both, if there is no title or sign showing the contrary.

There is a sign contrary to the part-ownership whenever the earth or dirt removed to open the ditch or to clean it is only on one side thereof, in which case the ownership of the ditch shall belong exclusively to the owner of the land having this exterior sign in its favor. (574)

ARTICLE 662. The cost of repairs and construction of party walls and the maintenance of fences, live hedges, ditches, and drains owned in common, shall be borne by all the owners of the lands or tenements having the party wall in their favor, in proportion to the right of each.

Nevertheless, any owner may exempt himself from contributing to this charge by renouncing his part-ownership, except when the party wall supports a building belonging to him. (575)

ARTICLE 663. If the owner of a building, supported by a party wall desires to demolish the building, he may also renounce his part-ownership of the wall, but the cost of all repairs and work necessary to prevent any damage which the demolition may cause to the party wall, on this occasion only, shall be borne by him. (576)

ARTICLE 664. Every owner may increase the height of the party wall, doing so at his own expense and paying for any damage which may be caused by the work, even though such damage be temporary.

The expenses of maintaining the wall in the part newly raised or deepened at its foundation shall also be paid for by him; and, in addition, the indemnity for the increased expenses which may be necessary for the preservation of the party wall by reason of the greater height or depth which has been given it.

If the party wall cannot bear the increased height, the owner desiring to raise it shall be obliged to reconstruct it at his own expense and, if for this purpose it be necessary to make it thicker, he shall give the space required from his own land. (577)

ARTICLE 665. The other owners who have not contributed in giving increased height, depth or thickness to the wall may, nevertheless, acquire the right of part-ownership therein, by paying proportionally the value of the work at the time of the acquisition and of the land used for its increased thickness. (578a)

ARTICLE 666. Every part-owner of a party wall may use it in proportion to the right he may have in the co-ownership, without interfering with the common and respective uses by the other co-owners. (579a)

Sec. 5
Easement of Light and View

ARTICLE 667. No part-owner may, without the consent of the others, open through the party wall any window or aperture of any kind. (580)

ARTICLE 668. The period of prescription for the acquisition of an easement of light and view shall be counted:

(1) From the time of the opening of the window, if it is through a party wall; or

(2) From the time of the formal prohibition upon the proprietor of the adjoining land or tenement, if the window is through a wall on the dominant estate. (n)

ARTICLE 669. When the distances in article 670 are not observed, the owner of a wall which is not party wall, adjoining a tenement or piece of land belonging to another, can make in it openings to admit light at the height of the ceiling joints or immediately under the ceiling, and of the size of thirty centimeters square, and, in every case, with an iron grating imbedded in the wall and with a wire screen.

Nevertheless, the owner of the tenement or property adjoining the wall in which the openings are made can close them should he acquire part-ownership thereof, if there be no stipulation to the contrary.

He can also obstruct them by constructing a building on his land or by raising a wall thereon contiguous to that having such openings, unless an easement of light has been acquired. (581a)

ARTICLE 670. No windows, apertures, balconies, or other similar projections which afford a direct view upon or towards an adjoining land or tenement can be made, without leaving a distance of two meters between the wall in which they are made and such contiguous property.

Neither can side or oblique views upon or towards such conterminous property be had, unless there be a distance of sixty centimeters.

The nonobservance of these distances does not give rise to prescription. (582a)

ARTICLE 671. The distance referred to in the preceding article shall be measured in cases of direct views from the outer line of the wall when the openings do not project, from the outer line of the latter when they do, and in cases of oblique view from the dividing line between the two properties. (583)

ARTICLE 672. The provisions of article 670 are not applicable to buildings separated by a public way or alley, which is not less than three meters wide, subject to special regulations and local ordinances. (584a)

ARTICLE 673. Whenever by any title a right has been acquired to have direct views, balconies or belvederes overlooking an adjoining property, the owner of the servient estate cannot build thereon at less than a distance of three meters to be measured in the manner provided in article 671. Any stipulation permitting distances less than those prescribed in article 670 is void. (585a)

Sec. 6

Drainage of Buildings

ARTICLE 674. The owner of a building shall be obliged to construct its roof or covering in such manner that the rain water shall fall on his own land or on a street or public place, and not on the land of his neighbor, even though the adjacent land may belong to two or more persons, one of whom is the owner of the roof. Even if it should fall on his own land, the owner shall be obliged to collect the water in such a way as not to cause damage to the adjacent land or tenement. (586a)

ARTICLE 675. The owner of a tenement or a piece of land, subject to the easement of receiving water falling from roofs, may build in such manner as to receive the water upon his own roof or give it another outlet in accordance with local ordinances or customs, and in such a way as not to cause any nuisance or damage whatever to the dominant estate. (587)

ARTICLE 676. Whenever the yard or court of a house is surrounded by other houses, and it is not possible to give an outlet through the house itself to the rain water collected thereon, the establishment of an easement of drainage can be demanded, giving an outlet to the water at the point of the contiguous lands or tenements where its egress may be easiest, and establishing a conduit for the drainage in such manner as to cause the least damage to the servient estate, after payment of the property indemnity. (583)

Sec. 7

Intermediate Distances and Works for Certain Constructions and Plantings

ARTICLE 677. No constructions can be built or plantings made near fortified places or fortresses without compliance with the conditions required in special laws, ordinances, and regulations relating thereto. (589)

ARTICLE 678. No person shall build any aqueduct, well, sewer, furnace, forge, chimney, stable, depository of corrosive substances, machinery, or factory which by reason of its nature or products is dangerous or noxious, without observing the distances prescribed by the regulations and customs of the place, and without making the necessary protective works, subject, in regard to the manner thereof, to the conditions prescribed by such regulations. These prohibitions cannot be altered or renounced by stipulation on the part of the adjoining proprietors.

In the absence of regulations, such precautions shall be taken as may be considered necessary, in order to avoid any damage to the neighboring lands or tenements. (590a)

ARTICLE 679. No trees shall be planted near a tenement or piece of land belonging to another except at the distance authorized by the ordinances or customs of the place, and, in the absence thereof, at a distance of at least two meters from the dividing line of the estates if tall trees are planted and at a distance of at least fifty centimeters if shrubs or small trees are planted.

Every landowner shall have the right to demand that trees hereafter planted at a shorter distance from his land or tenement be uprooted.

The provisions of this article also apply to trees which have grown spontaneously. (591a)

ARTICLE 680. If the branches of any tree should extend over a neighboring estate, tenement, garden or yard, the owner of the latter shall have the right to demand that they be cut off insofar as they may spread over his property, and, if it be the roots of a neighboring tree which should penetrate into the land of another, the latter may cut them off himself within his property. (592)

ARTICLE 681. Fruits naturally falling upon adjacent land belong to the owner of said land. (n)

Sec. 8

Easement Against Nuisance (n)

ARTICLE 682. Every building or piece of land is subject to the easement which prohibits the proprietor or possessor from committing nuisance through noise, jarring, offensive odor, smoke, heat, dust, water, glare and other causes.

ARTICLE 683. Subject to zoning, health, police and other laws and regulations, factories and shops may be maintained provided the least possible annoyance is caused to the neighborhood.

Sec. 9

Lateral and Subjacent Support (n)

ARTICLE 684. No proprietor shall make such excavations upon his land as to deprive any adjacent land or building of sufficient lateral or subjacent support.

ARTICLE 685. Any stipulation or testamentary provision allowing excavations that cause danger to an adjacent land or building shall be void.

ARTICLE 686. The legal easement of lateral and subjacent support is not only for buildings standing at the time the excavations are made but also for constructions that may be erected.

ARTICLE 687. Any proprietor intending to make any excavation contemplated in the three preceding articles shall notify all owners of adjacent lands.

CHAPTER 3

Voluntary Easements

ARTICLE 688. Every owner of a tenement or piece of land may establish thereon the easements which he may deem suitable, and in the manner and form which he may deem best, provided he does not contravene the laws, public policy or public order. (594)

ARTICLE 689. The owner of a tenement or piece of land, the usufruct of which belongs to another, may impose thereon, without the consent of the usufructuary, any servitudes which will not injure the right of usufruct. (595)

ARTICLE 690. Whenever the naked ownership of a tenement or piece of land belongs to one person and the beneficial ownership to another, no perpetual voluntary easement may be established thereon without the consent of both owners. (596)

ARTICLE 691. In order to impose an easement on an undivided tenement, or piece of land, the consent of all the co-owners shall be required.

The consent given by some only, must be held in abeyance until the last one of all the co-owners shall have expressed his conformity.

But the consent given by one of the co-owners separately from the others shall bind the grantor and his successors not to prevent the exercise of the right granted. (597a)

ARTICLE 692. The title and, in a proper case, the possession of an easement acquired by prescription shall determine the rights of the dominant estate and the obligations of the servient estate. In default thereof, the easement shall be governed by such provisions of this Title as are applicable thereto. (598)

ARTICLE 693. If the owner of the servient estate should have bound himself, upon the establishment of the easement, to bear the cost of the work required for the use and preservation thereof, he may free himself from this obligation by renouncing his property to the owner of the dominant estate. (599)

TITLE VIII

Nuisance (n)

ARTICLE 694. A nuisance is any act, omission, establishment, business, condition of property, or anything else which:

(1) Injures or endangers the health or safety of others; or

(2) Annoys or offends the senses; or

(3) Shocks, defies or disregards decency or morality; or

(4) Obstructs or interferes with the free passage of any public highway or street, or any body of water; or

(5) Hinders or impairs the use of property.

ARTICLE 695. Nuisance is either public or private. A public nuisance affects a community or neighborhood or any considerable number of persons, although the extent of the annoyance, danger or damage upon individuals may be unequal. A private nuisance is one that is not included in the foregoing definition.

ARTICLE 696. Every successive owner or possessor of property who fails or refuses to abate a nuisance in that property started by a former owner or possessor is liable therefor in the same manner as the one who created it.

ARTICLE 697. The abatement of a nuisance does not preclude the right of any person injured to recover damages for its past existence.

ARTICLE 698. Lapse of time cannot legalize any nuisance, whether public or private.

ARTICLE 699. The remedies against a public nuisance are:

(1) A prosecution under the Penal Code or any local ordinance: or

(2) A civil action; or

(3) Abatement, without judicial proceedings.

ARTICLE 700. The district health officer shall take care that one or all of the remedies against a public nuisance are availed of.

ARTICLE 701. If a civil action is brought by reason of the maintenance of a public nuisance, such action shall be commenced by the city or municipal mayor.

ARTICLE 702. The district health officer shall determine whether or not abatement, without judicial proceedings, is the best remedy against a public nuisance.

ARTICLE 703. A private person may file an action on account of a public nuisance, if it is specially injurious to himself.

ARTICLE 704. Any private person may abate a public nuisance which is specially injurious to him by removing, or if necessary, by destroying the thing which constitutes the same, without committing a breach of the peace, or doing unnecessary injury. But it is necessary:

(1) That demand be first made upon the owner or possessor of the property to abate the nuisance;

(2) That such demand has been rejected;

(3) That the abatement be approved by the district health officer and executed with the assistance of the local police; and

(4) That the value of the destruction does not exceed three thousand pesos.

ARTICLE 705. The remedies against a private nuisance are:

(1) A civil action; or

(2) Abatement, without judicial proceedings.

ARTICLE 706. Any person injured by a private nuisance may abate it by removing, or if necessary, by destroying the thing which constitutes the nuisance, without committing a breach of the peace or doing unnecessary injury. However, it is indispensable that the procedure for extrajudicial abatement of a public nuisance by a private person be followed.

ARTICLE 707. A private person or a public official extrajudicially abating a nuisance shall be liable for damages:

(1) If he causes unnecessary injury; or

(2) If an alleged nuisance is later declared by the courts to be not a real nuisance.

TITLE IX
Registry of Property

ARTICLE 708. The Registry of Property has for its object the inscription or annotation of acts and contracts relating to the ownership and other rights over immovable property. (605)

ARTICLE 709. The titles of ownership, or of other rights over immovable property, which are not duly inscribed or annotated in the Registry of Property shall not prejudice third persons. (606)

ARTICLE 710. The books in the Registry of Property shall be public for those who have a known interest in ascertaining the status of the immovables or real rights annotated or inscribed therein. (607)

ARTICLE 711. For determining what titles are subject to inscription or annotation, as well as the form, effects, and cancellation of inscriptions and

annotations, the manner of keeping the books in the Registry, and the value of the entries contained in said books, the provisions of the Mortgage Law, the Land Registration Act, and other special laws shall govern. (608a)

Since 19.07.98