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## VIRTUAL LAW LIBRARY

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PHILIPPINE LAWS, STATUTES AND CODES - CHAN ROBLES VIRTUAL LAW LIBRARY

### REPUBLIC ACTS

#### REPUBLIC ACT NO. 386

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

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#### BOOK I

##### *Persons*

#### TITLE I

##### *Civil Personality*

#### CHAPTER 1

##### *General Provisions*

ARTICLE 37. Juridical capacity, which is the fitness to be the subject of legal relations, is inherent in every natural person and is lost only through death. Capacity to act, which is the power to do acts with legal effect, is acquired and may be lost. (n)

ARTICLE 38. Minority, insanity or imbecility, the state of being a deaf-mute, prodigality and civil interdiction are mere restrictions on capacity to act, and do not exempt the incapacitated person from certain obligations, as when the latter arise from his acts or from property relations, such as easements. (32a)

ARTICLE 39. The following circumstances, among others, modify or limit capacity to act: age, insanity, imbecility, the state of being a deaf-mute, penalty, prodigality, family relations, alienage, absence, insolvency and trusteeship. The consequences of these circumstances are governed in this Code, other codes, the Rules of Court, and in special laws. Capacity to act is not limited on account of religious belief or political opinion.

A married woman, twenty-one years of age or over, is qualified for all acts of civil life, except in cases specified by law. (n)

#### CHAPTER 2

##### *Natural Persons*

ARTICLE 40. Birth determines personality; but the conceived child shall be considered born for all purposes that are favorable to it, provided it be born

later with the conditions specified in the following article. (29a)

ARTICLE 41. For civil purposes, the foetus is considered born if it is alive at the time it is completely delivered from the mother's womb. However, if the foetus had an intra-uterine life of less than seven months, it is not deemed born if it dies within twenty-four hours after its complete delivery from the maternal womb. (30a)

ARTICLE 42. Civil personality is extinguished by death.

The effect of death upon the rights and obligations of the deceased is determined by law, by contract and by will. (32a)

ARTICLE 43. If there is a doubt, as between two or more persons who are called to succeed each other, as to which of them died first, whoever alleges the death of one prior to the other, shall prove the same; in the absence of proof, it is presumed that they died at the same time and there shall be no transmission of rights from one to the other. (33)

### CHAPTER 3 *Juridical Persons*

ARTICLE 44. The following are juridical persons:

- (1) The State and its political subdivisions;
- (2) Other corporations, institutions and entities for public interest or purpose, created by law; their personality begins as soon as they have been constituted according to law;
- (3) Corporations, partnerships and associations for private interest or purpose to which the law grants a juridical personality, separate and distinct from that of each shareholder, partner or member. (35a)

ARTICLE 45. Juridical persons mentioned in Nos. 1 and 2 of the preceding article are governed by the laws creating or recognizing them.

Private corporations are regulated by laws of general application on the subject.

Partnerships and associations for private interest or purpose are governed by the provisions of this Code concerning partnerships. (36 and 37a)

ARTICLE 46. Juridical persons may acquire and possess property of all kinds, as well as incur obligations and bring civil or criminal actions, in conformity with the laws and regulations of their organization. (38a)

ARTICLE 47. Upon the dissolution of corporations, institutions and other entities for public interest or purpose mentioned in No. 2 of article 44, their property and other assets shall be disposed of in pursuance of law or the charter creating them. If nothing has been specified on this point, the property and other assets shall be applied to similar purposes for the benefit of the region, province, city or municipality which during the existence of the institution derived the principal benefits from the same. (39a)

### TITLE II *Citizenship and Domicile*

ARTICLE 48. The following are citizens of the Philippines:

- (1) Those who were citizens of the Philippines at the time of the adoption of the Constitution of the Philippines;
- (2) Those born in the Philippines of foreign parents who, before the adoption of said Constitution, had been elected to public office in the Philippines;
- (3) Those whose fathers are citizens of the Philippines;
- (4) Those whose mothers are citizens of the Philippines and, upon reaching the age of majority, elect Philippine citizenship;
- (5) Those who are naturalized in accordance with law. (n)

ARTICLE 49. Naturalization and the loss and reacquisition of citizenship of the Philippines are governed by special laws. (n)

ARTICLE 50. For the exercise of civil rights and the fulfillment of civil obligations, the domicile of natural persons is the place of their habitual residence. (40a)

ARTICLE 51. When the law creating or recognizing them, or any other provision does not fix the domicile of juridical persons, the same shall be

understood to be the place where their legal representation is established or where they exercise their principal functions. (41a)

### TITLE III

#### *Marriage*

### CHAPTER 1

#### *Requisites of Marriage*

ARTICLE 52. Marriage is not a mere contract but an inviolable social institution. Its nature, consequences and incidents are governed by law and not subject to stipulation, except that the marriage settlements may to a certain extent fix the property relations during the marriage. (n)

ARTICLE 53. No marriage shall be solemnized unless all these requisites are complied with:

- (1) Legal capacity of the contracting parties;
- (2) Their consent, freely given;
- (3) Authority of the person performing the marriage; and
- (4) A marriage license, except in a marriage of exceptional character (Section 1a, art. 3613).

ARTICLE 54. Any male of the age of sixteen years or upwards, and any female of the age of fourteen years or upwards, not under any of the impediments mentioned in articles 80 to 84, may contract marriage. (2)

ARTICLE 55. No particular form for the ceremony of marriage is required, but the parties with legal capacity to contract marriage must declare, in the presence of the person solemnizing the marriage and of two witnesses of legal age, that they take each other as husband and wife. This declaration shall be set forth in an instrument in triplicate, signed by signature or mark by the contracting parties and said two witnesses and attested by the person solemnizing the marriage.

In case of a marriage on the point of death, when the dying party, being physically unable, cannot sign the instrument by signature or mark, it shall be sufficient for one of the witnesses to the marriage to sign in his name, which fact shall be attested by the minister solemnizing the marriage. (3)

ARTICLE 56. Marriage may be solemnized by:

- (1) The Chief Justice and Associate Justices of the Supreme Court;
- (2) The Presiding Justice and the Justices of the Court of Appeals;
- (3) Judges of the Courts of First Instance;
- (4) Mayors of cities and municipalities;
- (5) Municipal judges and justices of the peace;
- (6) Priests, rabbis, ministers of the gospel of any denomination, church, religion or sect, duly registered, as provided in article 92; and
- (7) Ship captains, airplane chiefs, military commanders, and consuls and vice-consuls in special cases provided in articles 74 and 75. (4a)

ARTICLE 57. The marriage shall be solemnized publicly in the office of the judge in open court or of the mayor; or in the church, chapel or temple, as the case may be, and not elsewhere, except in cases of marriages contracted on the point of death or in remote places in accordance with article 72 of this Code, or in case of marriage referred to in article 76 or when one of the parents or the guardian of the female or the latter herself if over eighteen years of age request it in writing, in which cases the marriage may be solemnized at a house or place designated by said parent or guardian of the female or by the latter herself in a sworn statement to that effect. (5a)

ARTICLE 58. Save marriages of an exceptional character authorized in Chapter 2 of this Title, but not those under article 75, no marriage shall be solemnized without a license first being issued by the local civil registrar of the municipality where either contracting party habitually resides. (7a)

ARTICLE 59. The local civil registrar shall issue the proper license if each of the contracting parties swears separately before him or before any public official authorized to administer oaths, to an application in writing setting forth that such party has the necessary qualifications for contracting marriage. The applicants, their parents or guardians shall not be required to exhibit their residence certificates in any formality in connection with the securing of the marriage license. Such application shall insofar as possible contain the following data:

- (1) Full name of the contracting party;

- (2) Place of birth;
- (3) Age, date of birth;
- (4) Civil status (single, widow or widower, or divorced);
- (5) If divorced, how and when the previous marriage was dissolved;
- (6) Present residence;
- (7) Degree of relationship of the contracting parties;
- (8) Full name of the father;
- (9) Residence of the father;
- (10) Full name of the mother;
- (11) Residence of the mother;
- (12) Full name and residence of the guardian or person having charge, in case the contracting party has neither father nor mother and is under the age of twenty years, if a male, or eighteen years if a female. (7a)

ARTICLE 60. The local civil registrar, upon receiving such application, shall require the exhibition of the original baptismal or birth certificates of the contracting parties or copies of such documents duly attested by the persons having custody of the originals. These certificates or certified copies of the documents required by this article need not to be sworn to and shall be exempt from the documentary stamp tax. The signature and official title of the person issuing the certificate shall be sufficient proof of its authenticity.

If either of the contracting parties is unable to produce his baptismal or birth certificate or a certified copy of either because of the destruction or loss of the original, or if it is shown by an affidavit of such party or of any other person that such baptismal or birth certificate has not yet been received though the same has been requested of the person having custody thereof at least fifteen days prior to the date of the application, such party may furnish in lieu thereof his residence certificate for the current year or any previous years, to show the age stated in his application or, in the absence thereof, an instrument drawn up and sworn to before the local civil registrar concerned or any public official authorized to solemnize marriage. Such instrument shall contain the sworn declaration of two witnesses, of lawful age, of either sex, setting forth the full name, profession, and residence of such contracting party and of his or her parents, if known, and the place and date of birth of such party. The nearest of kin of the contracting parties shall be preferred as witnesses, and in their default, persons well known in the province or the locality for their honesty and good repute.

The exhibition of baptismal or birth certificates shall not be required if the parents of the contracting parties appear personally before the local civil registrar concerned and swear to the correctness of the lawful age of said parties, as stated in the application, or when the local civil registrar shall, by merely looking at the applicants upon their personally appearing before him, be convinced that either or both of them have the required age. (8a)

ARTICLE 61. In case either of the contracting parties is a widowed or divorced person, the same shall be required to furnish, instead of the baptismal or birth certificate required in the last preceding article, the death certificate of the deceased spouse or the decree of the divorce court, as the case may be. In case the death certificate cannot be found, the party shall make an affidavit setting forth this circumstance and his or her actual civil status and the name and the date of the death of the deceased spouse.

In case either or both of the contracting parties, being neither widowed nor divorced, are less than twenty years of age as regards the male and less than eighteen years as regards the female, they shall, in addition to the requirements of the preceding articles, exhibit to the local civil registrar, the consent to their marriage, of their father, mother or guardian, or persons having legal charge of them, in the order mentioned. Such consent shall be in writing, under oath taken with the appearance of the interested parties before the proper local civil registrar or in the form of an affidavit made in the presence of two witnesses and attested before any official authorized by law to administer oaths. (9a)

ARTICLE 62. Males above twenty but under twenty-five years of age, or females above eighteen but under twenty-three years of age, shall be obliged to ask their parents or guardian for advice upon the intended marriage. If they do not obtain such advice, or if it be unfavorable, the marriage shall not take place till after three months following the completion of the publication of the application for marriage license. A sworn statement by the contracting parties to the effect that such advice has been sought, together with the written advice given, if any, shall accompany the application for marriage license. Should the parents or guardian refuse to give any advice, this fact shall be stated in the sworn declaration. (n)

ARTICLE 63. The local civil registrar shall post during ten consecutive days at the main door of the building where he has his office a notice, the location of which shall not be changed once it has been placed, setting forth the full names and domiciles of the applicants for a marriage license and other information given in the application. This notice shall request all persons having knowledge of any impediment to the marriage to advise the local registrar thereof. The license shall be issued after the completion of the publication, unless the local civil registrar receives information upon any alleged impediment to the marriage. (10a)

ARTICLE 64. Upon being advised of any alleged impediment to the marriage, the local civil registrar shall forthwith make an investigation, examining persons under oath. If he is convicted that there is an impediment to the marriage, it shall be his duty to withhold the marriage license, unless he is otherwise ordered by a competent court. (n)

ARTICLE 65. The local civil registrar shall demand the previous payment of fees required by law or regulations for each license issued. No other sum shall be collected, in the nature of a fee or tax of any kind, for the issuance of a marriage license. Marriage licenses shall be issued free of charge to indigent parties, when both male and female do not each own assessed real property in excess of five hundred pesos, a fact certified to, without cost, by the provincial treasurer, or in the absence thereof, by a statement duly sworn to by the contracting parties before the local civil registrar. The license shall be valid in any part of the Philippines; but it shall be good for no more than one hundred and twenty days from the date on which it is issued and shall be deemed cancelled at the expiration of said period if the interested parties have not made use of it. (11a)

ARTICLE 66. When either or both of the contracting parties are citizens or subjects of a foreign country, it shall be necessary, before a marriage license can be obtained, to provide themselves with a certificate of legal capacity to contract marriage, to be issued by their respective diplomatic or consular officials. (13a)

ARTICLE 67. The marriage certificate in which the contracting parties shall state that they take each other as husband and wife, shall also contain:

- (1) The full names and domiciles of the contracting parties;
- (2) The age of each;
- (3) A statement that the proper marriage license has been issued according to law and that the contracting parties have the consent of their parents in case the male is under twenty or the female under eighteen years of age; and
- (4) A statement that the guardian or parent has been informed of the marriage, if the male is between the ages of twenty and twenty-five years, and the female between eighteen and twenty-three years of age. (15a)

ARTICLE 68. It shall be the duty of the person solemnizing the marriage to furnish to either of the contracting parties one of the three copies of the marriage contract referred to in article 55, and to send another copy of the document not later than fifteen days after the marriage took place to the local civil registrar concerned, whose duty it shall be to issue the proper receipt to any person sending a marriage contract solemnized by him, including marriages of an exceptional character. The official, priest, or minister solemnizing the marriage shall retain the third copy of the marriage contract, the marriage license and the affidavit of the interested party regarding the solemnization of the marriage in a place other than those mentioned in article 57 if there be any such affidavit, in the files that he must keep. (16a)

ARTICLE 69. It shall be the duty of the local civil registrar to prepare the documents required by this Title, and to administer oaths to all interested parties without any charge in both cases.

The documents and affidavits filed in connection with applications for marriage licenses shall be exempt from the documentary stamp tax. (17a)

ARTICLE 70. The local civil registrar concerned shall enter all applications for marriage licenses filed with him in a register book strictly in the order in which the same shall be received. He shall enter in said register the names of the applicants, the date on which the marriage license was issued, and such other data as may be necessary. (18a)

ARTICLE 71. All marriages performed outside the Philippines in accordance with the laws in force in the country where they were performed, and valid there as such, shall also be valid in this country, except bigamous, polygamous, or incestuous marriages as determined by Philippine law. (19a)

## CHAPTER 2

### *Marriages of Exceptional Character*

ARTICLE 72. In case either of the contracting parties is on the point of death or the female has her habitual residence at a place more than fifteen kilometers distant from the municipal building and there is no communication by railroad or by provincial or local highways between the former and the latter, the marriage may be solemnized without necessity of a marriage license; but in such cases the official, priest, or minister solemnizing it shall state in an affidavit made before the local civil registrar or any person authorized by law to administer oaths that the marriage was performed in articulo mortis or at a place more than fifteen kilometers distant from the municipal building concerned, in which latter case he shall give the name of the barrio where the marriage was solemnized. The person who solemnized the marriage shall also state, in either case, that he took the necessary steps to ascertain the ages and relationship of the contracting parties and that there was in his opinion no legal impediment to the marriage at the time that it was solemnized. (20)

ARTICLE 73. The original of the affidavit required in the last preceding article, together with a copy of the marriage contract, shall be sent by the person solemnizing the marriage to the local civil registrar of the municipality where it was performed within the period of thirty days, after the performance of the marriage. The local civil registrar shall, however, before filing the papers, require the payment into the municipal treasury of the legal fees required in article 65. (21)

ARTICLE 74. A marriage in articulo mortis may also be solemnized by the captain of a ship or chief of airplane during a voyage, or by the commanding

officer of a military unit, in the absence of a chaplain, during war. The duties mentioned in the two preceding articles shall be complied with by the ship captain, plane chief or commanding officer. (n)

ARTICLE 75. Marriages between Filipino citizens abroad may be solemnized by consuls and vice-consuls of the Republic of the Philippines. The duties of the local civil registrar and of a judge or justice of the peace or mayor with regard to the celebration of marriage shall be performed by such consuls and vice-consuls. (n)

ARTICLE 76. No marriage license shall be necessary when a man and a woman who have attained the age of majority and who, being unmarried, have lived together as husband and wife for at least five years, desire to marry each other. The contracting parties shall state the foregoing facts in an affidavit before any person authorized by law to administer oaths. The official, priest or minister who solemnized the marriage shall also state in an affidavit that he took steps to ascertain the ages and other qualifications of the contracting parties and that he found no legal impediment to the marriage. (n)

ARTICLE 77. In case two persons married in accordance with law desire to ratify their union in conformity with the regulations, rites, or practices of any church, sect, or religion it shall no longer be necessary to comply with the requirements of Chapter 1 of this Title and any ratification so made shall merely be considered as a purely religious ceremony. (23)

ARTICLE 78. Marriages between Mohammedans or pagans who live in the non-Christian provinces may be performed in accordance with their customs, rites or practices. No marriage license or formal requisites shall be necessary. Nor shall the persons solemnizing these marriages be obliged to comply with article 92.

However, twenty years after approval of this Code, all marriages performed between Mohammedans or pagans shall be solemnized in accordance with the provisions of this Code. But the President of the Philippines, upon recommendation of the Secretary of the Interior, may at any time before the expiration of said period, by proclamation, make any of said provisions applicable to the Mohammedan and non-Christian inhabitants of any of the non-Christian provinces. (25a)

ARTICLE 79. Mixed marriages between a Christian male and a Mohammedan or pagan female shall be governed by the general provision of this Title and not by those of the last preceding article, but mixed marriages between a Mohammedan or pagan male and a Christian female may be performed under the provisions of the last preceding article if so desired by the contracting parties, subject, however, in the latter case to the provisions of the second paragraph of said article. (26)

### CHAPTER 3

#### *Void and Voidable Marriages*

ARTICLE 80. The following marriages shall be void from the beginning:

- (1) Those contracted under the ages of sixteen and fourteen years by the male and female respectively, even with the consent of the parents;
- (2) Those solemnized by any person not legally authorized to perform marriages;
- (3) Those solemnized without a marriage license, save marriages of exceptional character;
- (4) Bigamous or polygamous marriages not falling under article 83, number 2;
- (5) Incestuous marriages mentioned in article 81;
- (6) Those where one or both contracting parties have been found guilty of the killing of the spouse of either of them;
- (7) Those between stepbrothers and stepsisters and other marriages specified in article 82. (n)

ARTICLE 81. Marriages between the following are incestuous and void from their performance, whether the relationship between the parties be legitimate or illegitimate:

- (1) Between ascendants and descendants of any degree;
- (2) Between brothers and sisters, whether of the full or half blood;
- (3) Between collateral relatives by blood within the fourth civil degree. (28a)

ARTICLE 82. The following marriages shall also be void from the beginning:

- (1) Between stepfathers and stepdaughters, and stepmothers and stepsons;
- (2) Between the adopting father or mother and the adopted, between the latter and the surviving spouse of the former, and between the former

and the surviving spouse of the latter;

(3) Between the legitimate children of the adopter and the adopted. (28a)

ARTICLE 83. Any marriage subsequently contracted by any person during the lifetime of the first spouse of such person with any person other than such first spouse shall be illegal and void from its performance, unless:

(1) The first marriage was annulled or dissolved; or

(2) The first spouse had been absent for seven consecutive years at the time of the second marriage without the spouse present having news of the absentee being alive, or if the absentee, though he has been absent for less than seven years, is generally considered as dead and believed to be so by the spouse present at the time of contracting such subsequent marriage, or if the absentee is presumed dead according to articles 390 and 391. The marriage so contracted shall be valid in any of the three cases until declared null and void by a competent court. (29a)

ARTICLE 84. No marriage license shall be issued to a widow till after three hundred days following the death of her husband, unless in the meantime she has given birth to a child. (n)

ARTICLE 85. A marriage may be annulled for any of the following causes, existing at the time of the marriage:

(1) That the party in whose behalf it is sought to have the marriage annulled was between the ages of sixteen and twenty years, if male, or between the ages of fourteen and eighteen years, if female, and the marriage was solemnized without the consent of the parent, guardian or person having authority over the party, unless after attaining the ages of twenty or eighteen years, as the case may be, such party freely cohabited with the other and both lived together as husband and wife;

(2) In a subsequent marriage under article 83, number 2, that the former husband or wife believed to be dead was in fact living and the marriage with such former husband or wife was then in force;

(3) That either party was of unsound mind, unless such party, after coming to reason, freely cohabited with the other as husband or wife;

(4) That the consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as her husband or his wife, as the case may be;

(5) That the consent of either party was obtained by force or intimidation, unless the violence or threat having disappeared, such party afterwards freely cohabited with the other as her husband or his wife, as the case may be;

(6) That either party was, at the time of marriage, physically incapable of entering into the married state, and such incapacity continues, and appears to be incurable. (30a)

ARTICLE 86. Any of the following circumstances shall constitute fraud referred to in number 4 of the preceding article:

(1) Misrepresentation as to the identity of one of the contracting parties;

(2) Non-disclosure of the previous conviction of the other party of a crime involving moral turpitude, and the penalty imposed was imprisonment for two years or more;

(3) Concealment by the wife of the fact that at the time of the marriage, she was pregnant by a man other than her husband.

No other misrepresentation or deceit as to character, rank, fortune or chastity shall constitute such fraud as will give grounds for action for the annulment of marriage. (n)

ARTICLE 87. The action for annulment of marriage must be commenced by the parties and within the periods as follows:

(1) For causes mentioned in number 1 of article 85, by the party whose parent or guardian did not give his or her consent, within four years after attaining the age of twenty or eighteen years, as the case may be; or by the parent or guardian or person having legal charge, at any time before such party has arrived at the age of twenty or eighteen years;

(2) For causes mentioned in number 2 of article 85, by the spouse who has been absent, during his or her lifetime; or by either spouse of the subsequent marriage during the lifetime of the other;

(3) For causes mentioned in number 3 of article 85, by the sane spouse, who had no knowledge of the other's insanity; or by any relative or guardian of the party of unsound mind, at any time before the death of either party;

(4) For causes mentioned in number 4, by the injured party, within four years after the discovery of the fraud;

(5) For causes mentioned in number 5, by the injured party, within four years from the time the force or intimidation ceased;

(6) For causes mentioned in number 6, by the injured party, within eight years after the marriage. (31a)

ARTICLE 88. No judgment annulling a marriage shall be promulgated upon a stipulation of facts or by confession of judgment.

In case of nonappearance of the defendant, the provisions of article 101, paragraph 2, shall be observed. (n)

ARTICLE 89. Children conceived or born of marriages which are void from the beginning shall have the same status, rights and obligations as acknowledged natural children, and are called natural children by legal fiction.

Children conceived of voidable marriages before the decree of annulment shall be considered as legitimate; and children conceived thereafter shall have the same status, rights and obligations as acknowledged natural children, and are also called natural children by legal fiction. (n)

ARTICLE 90. When a marriage is annulled, the court shall award the custody of the children as it may deem best, and make provision for their education and support. Attorney's fees and expenses incurred in the litigation shall be charged to the conjugal partnership property, unless the action fails. (33a)

ARTICLE 91. Damages may be awarded in the following cases when the marriage is judicially annulled or declared void from the beginning:

(1) If there has been fraud, force or intimidation in obtaining the consent of one of the contracting parties;

(2) If either party was, at the time of the marriage, physically incapable of entering into the married state, and the other party was unaware thereof;

(3) If the person solemnizing the marriage was not legally authorized to perform marriages, and that fact was known to one of the contracting parties, but he or she concealed it from the other;

(4) If a bigamous or polygamous marriage was celebrated, and the impediment was concealed from the plaintiff by the party disqualified;

(5) If in an incestuous marriage, or a marriage between a stepbrother and a stepsister or other marriage prohibited by article 82, the relationship was known to only one of the contracting parties but was not disclosed to the other;

(6) If one party was insane and the other was aware thereof at the time of the marriage. (n)

#### CHAPTER 4

##### *Authority to Solemnize Marriages*

ARTICLE 92. Every priest, or minister, or rabbi authorized by his denomination, church, sect, or religion to solemnize marriage shall send to the proper government office a sworn statement setting forth his full name and domicile, and that he is authorized by his denomination, church, sect, or religion to solemnize marriage, attaching to said statement a certified copy of his appointment. The director of the proper government office, upon receiving such sworn statement containing the information required, and being satisfied that the denomination, church, sect, or religion of the applicant operates in the Philippines, shall record the name of such priest or minister in a suitable register and issue to him an authorization to solemnize marriage. Said priest or minister or rabbi shall be obliged to exhibit his authorization to the contracting parties, to their parents, grandparents, guardians, or persons in charge demanding the same. No priest or minister not having the required authorization may solemnize marriage. (34a)

ARTICLE 93. Freedom of religion shall be observed by public officials in the issuance of authorization to solemnize marriages. Consequently, no public official shall attempt to inquire into the truth or validity of any religious doctrine held by the applicant or by his church. (n)

ARTICLE 94. The public official in charge of registration of priests and ministers shall cancel the authorization issued to a bishop, head, priest, rabbi, pastor or minister of the gospel of any denomination, church, sect, or religion, on his own initiative or at the request of any interested party, upon showing that the church, sect or religion whose ministers have been authorized to solemnize marriage is no longer in operation. The cancellation of the authorization granted to a priest, pastor or minister shall likewise be ordered upon the request of the bishop, head, or lawful authorities of the denomination, church, sect or religion to which he belongs. (35a)

ARTICLE 95. The public official in charge of registration of priests and ministers, with the approval of the proper head of Department, is hereby authorized to prepare the necessary forms and to promulgate regulations for the purpose of enforcing the provisions of this Title. Said official may also by regulations fix and collect fees for the authorization of priests and ministers to solemnize marriages. (36a)

ARTICLE 96. The existing laws which punish acts or omissions concerning the marriage license, solemnization of marriage, authority to solemnize marriages, and other acts or omissions relative to the celebration of marriage shall remain and continue to be in force. (n)

#### TITLE IV

##### *Legal Separation*



ARTICLE 97. A petition for legal separation may be filed:

- (1) For adultery on the part of the wife and for concubinage on the part of the husband as defined in the Penal Code; or
- (2) An attempt by one spouse against the life of the other. (n)

ARTICLE 98. In every case the court must take steps, before granting the legal separation, toward the reconciliation of the spouses, and must be fully satisfied that such reconciliation is highly improbable. (n)

ARTICLE 99. No person shall be entitled to a legal separation who has not resided in the Philippines for one year prior to the filing of the petition, unless the cause for the legal separation has taken place within the territory of this Republic. (Sec. 2a, Act No. 2710).

ARTICLE 100. The legal separation may be claimed only by the innocent spouse, provided there has been no condonation of or consent to the adultery or concubinage. Where both spouses are offenders, a legal separation cannot be claimed by either of them. Collusion between the parties to obtain legal separation shall cause the dismissal of the petition. (3a, Act No. 2710)

ARTICLE 101. No decree of legal separation shall be promulgated upon a stipulation of facts or by confession of judgment.

In case of non-appearance of the defendant, the court shall order the prosecuting attorney to inquire whether or not a collusion between the parties exists. If there is no collusion, the prosecuting attorney shall intervene for the State in order to take care that the evidence for the plaintiff is not fabricated. (n)

ARTICLE 102. An action for legal separation cannot be filed except within one year from and after the date on which the plaintiff became cognizant of the cause and within five years from and after the date when such cause occurred. (4a, Act 2710)

ARTICLE 103. An action for legal separation shall in no case be tried before six months shall have elapsed since the filing of the petition. (5a, Act 2710)

ARTICLE 104. After the filing of the petition for legal separation, the spouses shall be entitled to live separately from each other and manage their respective property.

The husband shall continue to manage the conjugal partnership property but if the court deems it proper, it may appoint another to manage said property, in which case the administrator shall have the same rights and duties as a guardian and shall not be allowed to dispose of the income or of the capital except in accordance with the orders of the court. (6, Act 2710)

ARTICLE 105. During the pendency of legal separation proceedings the court shall make provision for the care of the minor children in accordance with the circumstances and may order the conjugal partnership property or the income therefrom to be set aside for their support; and in default thereof said minor children shall be cared for in conformity with the provisions of this Code; but the Court shall abstain from making any order in this respect in case the parents have by mutual agreement, made provision for the care of said minor children and these are, in the judgment of the court, well cared for. (7a, Act 2710)

ARTICLE 106. The decree of legal separation shall have the following effects:

- (1) The spouses shall be entitled to live separately from each other, but marriage bonds shall not be severed;
- (2) The conjugal partnership of gains or the absolute conjugal community of property shall be dissolved and liquidated, but the offending spouse shall have no right to any share of the profits earned by the partnership or community, without prejudice to the provisions of article 176;
- (3) The custody of the minor children shall be awarded to the innocent spouse, unless otherwise directed by the court in the interest of said minors, for whom said court may appoint a guardian;
- (4) The offending spouse shall be disqualified from inheriting from the innocent spouse by intestate succession. Moreover, provisions in favor of the offending spouse made in the will of the innocent one shall be revoked by operation of law. (n)

ARTICLE 107. The innocent spouse, after a decree of legal separation has been granted, may revoke the donations by reason of marriage made by him or by her to the offending spouse. Alienation and mortgages made before the notation of the complaint for revocation in the Registry of Property shall be valid.

This action lapses after four years following the date the decree became final. (n)

ARTICLE 108. Reconciliation stops the proceedings for legal separation and rescinds the decree of legal separation already rendered.

The revival of the conjugal partnership of gains or of the absolute conjugal community of property shall be governed by article 195. (10a. Act 2710)

TITLE V  
*Rights and Obligations Between Husband and Wife*

ARTICLE 109. The husband and wife are obliged to live together, observe mutual respect and fidelity, and render mutual help and support. (56a)

ARTICLE 110. The husband shall fix the residence of the family. But the court may exempt the wife from living with the husband if he should live abroad unless in the service of the Republic. (58a)

ARTICLE 111. The husband is responsible for the support of the wife and the rest of the family. These expenses shall be met first from the conjugal property, then from the husband's capital, and lastly from the wife's paraphernal property. In case there is a separation of property, by stipulation in the marriage settlements, the husband and wife shall contribute proportionately to the family expenses. (n)

ARTICLE 112. The husband is the administrator of the conjugal property, unless there is a stipulation in the marriage settlements conferring the administration upon the wife. She may also administer the conjugal partnership in other cases specified in this Code. (n)

ARTICLE 113. The husband must be joined in all suits by or against the wife, except:

- (1) When they are judicially separated;
- (2) If they have in fact been separated for at least one year;
- (3) When there is a separation of property agreed upon in the marriage settlements;
- (4) If the administration of all the property in the marriage has been transferred to her, in accordance with articles 196 and 197;
- (5) When the litigation is between the husband and wife;
- (6) If the suit concerns her paraphernal property;
- (7) When the action is upon the civil liability arising from a criminal offense;
- (8) If the litigation is incidental to the profession, occupation or business in which she is engaged;
- (9) In any civil action referred to in articles 25 to 35; and
- (10) In an action upon a quasi-delict.

In the cases mentioned in Nos. 7 to 10, the husband must be joined as a party defendant if the third paragraph of article 163 is applicable. (n)

ARTICLE 114. The wife cannot, without the husband's consent acquire any property by gratuitous title, except from her ascendants, descendants, parents-in-law, and collateral relatives within the fourth degree. (n)

ARTICLE 115. The wife manages the affairs of the household. She may purchase things necessary for the support of the family, and the conjugal partnership shall be bound thereby. She may borrow money for this purpose, if the husband fails to deliver the proper sum. The purchase of jewelry and precious objects is voidable, unless the transaction has been expressly or tacitly approved by the husband, or unless the price paid is from her paraphernal property. (62a)

ARTICLE 116. When one of the spouses neglects his or her duties to the conjugal union or brings danger, dishonor or material injury upon the other, the injured party may apply to the court for relief.

The court may counsel the offender to comply with his or her duties, and take such measures as may be proper. (n)

ARTICLE 117. The wife may exercise any profession or occupation or engage in business. However, the husband may object, provided:

- (1) His income is sufficient for the family, according to its social standing; and
- (2) His opposition is founded on serious and valid grounds.

In case of disagreement on this question, the parents and grandparents as well as the family council, if any, shall be consulted. If no agreement is still arrived at, the court will decide whatever may be proper and in the best interest of the family. (n)

TITLE VI  
*Property Relations Between Husband and Wife*

CHAPTER 1  
*General Provisions*

ARTICLE 118. The property relations between husband and wife shall be governed in the following order:

- (1) By contract executed before the marriage;
- (2) By the provisions of this Code; and
- (3) By custom. (1315a)

ARTICLE 119. The future spouses may in the marriage settlements agree upon absolute or relative community of property, or upon complete separation of property, or upon any other regime. In the absence of marriage settlements, or when the same are void, the system of relative community or conjugal partnership of gains as established in this Code, shall govern the property relations between husband and wife. (n)

ARTICLE 120. A minor who according to law may contract marriage, may also execute his or her marriage settlements; but they shall be valid only if the persons designated by law to give consent to the marriage of the minor take part in the ante-nuptial agreement. In the absence of the parents or of a guardian, the consent to the marriage settlements will be given by the family council. (1318a)

ARTICLE 121. In order that any modification in the marriage settlements may be valid, it must be made before the celebration of the marriage, subject to the provisions of Art. 191. (1319a)

ARTICLE 122. The marriage settlements and any modification thereof shall be governed by the Statute of Frauds, and executed before the celebration of the marriage. They shall not prejudice third persons unless they are recorded in the Registry of Property. (1321a)

ARTICLE 123. For the validity of marriage settlements executed by any person upon whom a sentence of civil interdiction has been pronounced, the presence and participation of the guardian shall be indispensable, who for this purpose shall be designated by a competent court, in accordance with the provisions of the Rules of Court. (1323a)

ARTICLE 124. If the marriage is between a citizen of the Philippines and a foreigner, whether celebrated in the Philippines or abroad, the following rules shall prevail:

- (1) If the husband is a citizen of the Philippines while the wife is a foreigner, the provisions of this Code shall govern their relations;
- (2) If the husband is a foreigner and the wife is a citizen of the Philippines, the laws of the husband's country shall be followed, without prejudice to the provisions of this Code with regard to immovable property. (1325a)

ARTICLE 125. Everything stipulated in the settlements or contracts referred to in the preceding articles in consideration of a future marriage shall be rendered void and without effect whatever, if the marriage should not take place. However, those stipulations that do not depend upon the celebration of the marriage shall be valid. (1326a)

CHAPTER 2  
*Donations by Reason of Marriage*

ARTICLE 126. Donations by reasons of marriage are those which are made before its celebration, in consideration of the same and in favor of one or both of the future spouses. (1327)

ARTICLE 127. These donations are governed by the rules on ordinary donations established in Title III of Book III, except as to their form which shall be regulated by the Statute of Frauds; and insofar as they are not modified by the following articles. (1328a)

ARTICLE 128. Minors may make and receive donations in their ante-nuptial contract, provided they are authorized by the persons who are to give their consent to the marriage of said minors. (1329a)

ARTICLE 129. Express acceptance is not necessary for the validity of these donations. (1330)

ARTICLE 130. The future spouses may give each other in their marriage settlements as much as one-fifth of their present property, and with respect to their future property, only in the event of death, to the extent laid down by the provisions of this Code referring to testamentary succession. (1331a)

ARTICLE 131. The donor by reason of marriage shall release the property donated from mortgages and all other encumbrances upon the same, with the exception of easements, unless in the marriage settlements or in the contracts the contrary has been stipulated. (1332a)

ARTICLE 132. A donation by reason of marriage is not revocable, save in the following cases:

- (1) If it is conditional and the condition is not complied with;
- (2) If the marriage is not celebrated;
- (3) When the marriage takes place without the consent of the parents or guardian, as required by law;
- (4) When the marriage is annulled, and the donee acted in bad faith;
- (5) Upon legal separation, the donee being the guilty spouse;
- (6) When the donee has committed an act of ingratitude as specified by the provisions of this Code on donations in general. (1333a)

ARTICLE 133. Every donation between the spouses during the marriage shall be void. This prohibition does not apply when the donation takes effect after the death of the donor.

Neither does this prohibition apply to moderate gifts which the spouses may give each other on the occasion of any family rejoicing. (1334a)

ARTICLE 134. Donations during the marriage by one of the spouses to the children whom the other spouse had by another marriage, or to persons of whom the other spouse is a presumptive heir at the time of the donation are voidable, at the instance of the donor's heirs after his death. (1335a)

### CHAPTER 3 *Paraphernal Property*

ARTICLE 135. All property brought by the wife to the marriage, as well as all property she acquires during the marriage, in accordance with article 148, is paraphernal. (1381a)

ARTICLE 136. The wife retains the ownership of the paraphernal property. (1382)

ARTICLE 137. The wife shall have the administration of the paraphernal property, unless she delivers the same to the husband by means of a public instrument empowering him to administer it.

In this case, the public instrument shall be recorded in the Registry of Property. As for the movables, the husband shall give adequate security. (1384a)

ARTICLE 138. The fruits of the paraphernal property form part of the assets of the conjugal partnership, and shall be subject to the payment of the expenses of the marriage.

The property itself shall also be subject to the daily expenses of the family, if the property of the conjugal partnership and the husband's capital are not sufficient therefor. (1385a)

ARTICLE 139. The personal obligations of the husband can not be enforced against the fruits of the paraphernal property, unless it be proved that they redounded to the benefit of the family. (1386)

ARTICLE 140. A married woman of age may mortgage, encumber, alienate or otherwise dispose of her paraphernal property, without the permission of the husband, and appear alone in court to litigate with regard to the same. (n)

ARTICLE 141. The alienation of any paraphernal property administered by the husband gives a right to the wife to require the constitution of a mortgage or any other security for the amount of the price which the husband may have received. (1390a)

### CHAPTER 4 *Conjugal Partnership of Gains*

#### Section 1 *General Provisions*

ARTICLE 142. By means of the conjugal partnership of gains the husband and wife place in a common fund the fruits of their separate property and the income from their work or industry, and divide equally, upon the dissolution of the marriage or of the partnership, the net gains or benefits obtained indiscriminately by either spouse during the marriage. (1392a)

ARTICLE 143. All property of the conjugal partnership of gains is owned in common by the husband and wife. (n)

ARTICLE 144. When a man and a woman live together as husband and wife, but they are not married, or their marriage is void from the beginning, the property acquired by either or both of them through their work or industry or their wages and salaries shall be governed by the rules on co-ownership. (n)

ARTICLE 145. The conjugal partnership shall commence precisely on the date of the celebration of the marriage. Any stipulation to the contrary shall be void. (1393)

ARTICLE 146. Waiver of the gains or of the effects of this partnership during marriage cannot be made except in case of judicial separation.

When the waiver takes place by reason of separation, or after the marriage has been dissolved or annulled, the same shall appear in a public instrument, and the creditors shall have the right which article 1052 grants them. (1394a)

ARTICLE 147. The conjugal partnership shall be governed by the rules on the contract of partnership in all that is not in conflict with what is expressly determined in this Chapter. (1395)

## Sec. 2

### *Exclusive Property of Each Spouse*

ARTICLE 148. The following shall be the exclusive property of each spouse:

- (1) That which is brought to the marriage as his or her own;
- (2) That which each acquires, during the marriage, by lucrative title;
- (3) That which is acquired by right of redemption or by exchange with other property belonging to only one of the spouses;
- (4) That which is purchased with exclusive money of the wife or of the husband. (1396)

ARTICLE 149. Whoever gives or promises capital to the husband shall not be subject to warranty against eviction, except in case of fraud. (1397)

ARTICLE 150. Property donated or left by will to the spouses, jointly and with designation of determinate shares, shall pertain to the wife as paraphernal property, and to the husband as capital, in the proportion specified by the donor or testator, and in the absence of designation, share and share alike, without prejudice to what is provided in article 753. (1398a)

ARTICLE 151. If the donations are onerous, the amount of the charges shall be deducted from the paraphernal property or from the husband's capital, whenever they have been borne by the conjugal partnership. (1399a)

ARTICLE 152. If some credit payable in a certain number of years, or a life pension, should pertain to one of the spouses, the provisions of articles 156 and 157 shall be observed to determine what constitutes the paraphernal property and what forms the capital of the husband. (1400a)

## Sec. 3

### *Conjugal Partnership Property*

ARTICLE 153. The following are conjugal partnership property:

- (1) That which is acquired by onerous title during the marriage at the expense of the common fund, whether the acquisition be for the partnership, or for only one of the spouses;
- (2) That which is obtained by the industry, or work, or as salary of the spouses, or of either of them;
- (3) The fruits, rents or interests received or due during the marriage, coming from the common property or from the exclusive property of each spouse. (1401)

ARTICLE 154. That share of the hidden treasure which the law awards to the finder or the proprietor belongs to the conjugal partnership. (n)

ARTICLE 155. Things acquired by occupation, such as fishing and hunting, pertain to the conjugal partnership of gains. (n)

ARTICLE 156. Whenever an amount or credit payable in a certain number of years belongs to one of the spouses, the sums which may be collected by installments due during the marriage shall not pertain to the conjugal partnership, but shall be considered capital of the husband or of the wife, as the credit may belong to one or the other spouse. (1402)

ARTICLE 157. The right to an annuity, whether perpetual or of life, and the right of usufruct, belonging to one of the spouses shall form a part of his or her separate property, but the fruits, pensions and interests due during the marriage shall belong to the partnership.

The usufruct which the spouses have over the property of their children, though of another marriage, shall be included in this provision. (1403a)

ARTICLE 158. Improvements, whether for utility or adornment, made on the separate property of the spouses through advancements from the partnership or through the industry of either the husband or the wife, belong to the conjugal partnership.

Buildings constructed, at the expense of the partnership, during the marriage on land belonging to one of the spouses, also pertain to the partnership, but the value of the land shall be reimbursed to the spouse who owns the same. (1404a)

ARTICLE 159. Whenever the paraphernal property or the husband's capital consists, in whole or in part, of livestock existing upon the dissolution of the partnership, the number of animals exceeding that brought to the marriage shall be deemed to be of the conjugal partnership. (1405a)

ARTICLE 160. All property of the marriage is presumed to belong to the conjugal partnership, unless it be proved that it pertains exclusively to the husband or to the wife. (1407)

#### Sec. 4

##### *Charges Upon and Obligation of the Conjugal Partnership*

ARTICLE 161. The conjugal partnership shall be liable for:

- (1) All debts and obligations contracted by the husband for the benefit of the conjugal partnership, and those contracted by the wife, also for the same purpose, in the cases where she may legally bind the partnership;
- (2) Arrears or income due, during the marriage, from obligations which constitute a charge upon property of either spouse or of the partnership;
- (3) Minor repairs or for mere preservation made during the marriage upon the separate property of either the husband or the wife; major repairs shall not be charged to the partnership;
- (4) Major or minor repairs upon the conjugal partnership property;
- (5) The maintenance of the family and the education of the children of both husband and wife, and of legitimate children of one of the spouses;
- (6) Expenses to permit the spouses to complete a professional, vocational or other course. (1408a)

ARTICLE 162. The value of what is donated or promised to the common children by the husband, only for securing their future or the finishing of a career, or by both spouses through a common agreement, shall also be charged to the conjugal partnership, when they have not stipulated that it is to be satisfied from the property of one of them, in whole or in part. (1409)

ARTICLE 163. The payment of debts contracted by the husband or the wife before the marriage shall not be charged to the conjugal partnership.

Neither shall the fines and pecuniary indemnities imposed upon them be charged to the partnership.

However, the payment of debts contracted by the husband or the wife before the marriage, and that of fines and indemnities imposed upon them, may be enforced against the partnership assets after the responsibilities enumerated in article 161 have been covered, if the spouse who is bound should have no exclusive property or if it should be insufficient; but at the time of the liquidation of the partnership such spouse shall be charged for what has been paid for the purpose above-mentioned. (1410)

ARTICLE 164. Whatever may be lost during the marriage in any kind of gambling, betting or game, whether permitted or prohibited by law, shall be borne by the loser, and shall not be charged to the conjugal partnership. (1411a)

#### Sec. 5

##### *Administration of the Conjugal Partnership*

ARTICLE 165. The husband is the administrator of the conjugal partnership. (1412a)

ARTICLE 166. Unless the wife has been declared a non compos mentis or a spendthrift, or is under civil interdiction or is confined in a leprosarium, the husband cannot alienate or encumber any real property of the conjugal partnership without the wife's consent. If she refuses unreasonably to give her consent, the court may compel her to grant the same.

This article shall not apply to property acquired by the conjugal partnership before the effective date of this Code. (1413a)

ARTICLE 167. In case of abuse of powers of administration of the conjugal partnership property by the husband, the courts, on petition of the wife, may provide for receivership, or administration by the wife, or separation of property. (n)

ARTICLE 168. The wife may, by express authority of the husband embodied in a public instrument, administer the conjugal partnership property. (n)

ARTICLE 169. The wife may also by express authority of the husband appearing in a public instrument, administer the latter's estate. (n)

ARTICLE 170. The husband or the wife may dispose by will of his or her half of the conjugal partnership profits. (1414a)

ARTICLE 171. The husband may dispose of the conjugal partnership property for the purposes specified in articles 161 and 162. (1415a)

ARTICLE 172. The wife cannot bind the conjugal partnership without the husband's consent except in cases provided by law. (1416a)

ARTICLE 173. The wife may, during the marriage, and within ten years from the transaction questioned, ask the courts for the annulment of any contract of the husband entered into without her consent, when such consent is required, or any act or contract of the husband which tends to defraud her or impair her interest in the conjugal partnership property. Should the wife fail to exercise this right, she or her heirs, after the dissolution of the marriage, may demand the value of property fraudulently alienated by the husband. (n)

ARTICLE 174. With the exception of moderate donations for charity, neither husband nor wife can donate any property of the conjugal partnership without the consent of the other. (n)

#### Sec. 6

##### *Dissolution of the Conjugal Partnership*

ARTICLE 175. The conjugal partnership of gains terminates:

- (1) Upon the death of either spouse;
- (2) When there is a decree of legal separation;
- (3) When the marriage is annulled;
- (4) In case of judicial separation of property under article 191. (1417a)

ARTICLE 176. In case of legal separation, the guilty spouse shall forfeit his or her share of the conjugal partnership profits, which shall be awarded to the children of both, and the children of the guilty spouse had by a prior marriage. However, if the conjugal partnership property came mostly or entirely from the work or industry, or from the wages and salaries, or from the fruits of the separate property of the guilty spouse, this forfeiture shall not apply.

In case there are no children, the innocent spouse shall be entitled to all the net profits. (n)

ARTICLE 177. In case of annulment of the marriage, the spouse who acted in bad faith or gave cause for annulment shall forfeit his or her share of the conjugal partnership profits. The provision of the preceding article shall govern. (n)

ARTICLE 178. The separation in fact between husband and wife without judicial approval, shall not affect the conjugal partnership, except that:

- (1) The spouse who leaves the conjugal home or refuses to live therein, without just cause, shall not have a right to be supported;
- (2) When the consent of one spouse to any transaction of the other is required by law, judicial authorization shall be necessary;
- (3) If the husband has abandoned the wife without just cause for at least one year, she may petition the court for a receivership, or administration by her of the conjugal partnership property, or separation of property. (n)

#### Sec. 7

##### *Liquidation of the Conjugal Partnership*

ARTICLE 179. Upon the dissolution of the conjugal partnership, an inventory shall be formed, but such inventory shall not be necessary:

- (1) If, after the dissolution of the partnership, one of the spouses should have renounced its effects and consequences in due time; or
- (2) When separation of property has preceded the dissolution of the partnership. (1418a)

ARTICLE 180. The bed and bedding which the spouses ordinarily use shall not be included in the inventory. These effects, as well as the clothing for their ordinary use, shall be delivered to the surviving spouse. (1420)

ARTICLE 181. The inventory having been completed, the paraphernal property shall first be paid. Then, the debts and charges against the conjugal partnership shall be paid. (1422a)

ARTICLE 182. The debts, charges and obligations of the conjugal partnership having been paid; the capital of the husband shall be liquidated and paid to the amount of the property inventoried. (1423a)

ARTICLE 183. The deductions from the inventoried property having been made as provided in the two preceding articles, the remainder of said property

shall constitute the credit of the conjugal partnership. (1424)

ARTICLE 184. The loss or deterioration of the movables belonging to either spouse, although through fortuitous event, shall be paid from the conjugal partnership of gains, should there be any.

Those suffered by real property shall not be reimbursable in any case, except those on paraphernal property administered by the husband, when the losses were due to his fault. He shall pay for the same. (1425a)

ARTICLE 185. The net remainder of the conjugal partnership of gains shall be divided equally between the husband and the wife or their respective heirs, unless a different basis of division was agreed upon in the marriage settlements. (1426a)

ARTICLE 186. The mourning apparel of the widow shall be paid for out of the estate of the deceased husband. (1427a)

ARTICLE 187. With regard to the formation of the inventory, rules for appraisal and sale of property of the conjugal partnership, and other matters which are not expressly determined in the present Chapter, the Rules of Court on the administration of estates of deceased persons shall be observed. (1428a)

ARTICLE 188. From the common mass of property support shall be given to the surviving spouse and to the children during the liquidation of the inventoried property and until what belongs to them is delivered; but from this shall be deducted that amount received for support which exceeds the fruits or rents pertaining to them. (1430)

ARTICLE 189. Whenever the liquidation of the partnership of two or more marriages contracted by the same person should be carried out at the same time, in order to determine the capital of each partnership all kinds of proof in the absence of inventories shall be admitted; and in case of doubt, the partnership property shall be divided between the different partnerships in proportion to the duration of each and to the property belonging to the respective spouses. (1431)

## CHAPTER 5

### *Separation of Property of the Spouses and Administration of Property by the Wife During the Marriage*

ARTICLE 190. In the absence of an express declaration in the marriage settlements, the separation of property between spouses during the marriage shall not take place save in virtue of a judicial order. (1432a)

ARTICLE 191. The husband or the wife may ask for the separation of property, and it shall be decreed when the spouse of the petitioner has been sentenced to a penalty which carries with it civil interdiction, or has been declared absent, or when legal separation has been granted.

In case of abuse of powers of administration of the conjugal partnership property by the husband, or in case of abandonment by the husband, separation of property may also be ordered by the court, according to the provisions of articles 167 and 178, No. 3.

In all these cases, it is sufficient to present the final judgment which has been entered against the guilty or absent spouse. (1433a)

The husband and the wife may agree upon the dissolution of the conjugal partnership during the marriage, subject to judicial approval. All the creditors of the husband and of the wife, as well as of the conjugal partnership shall be notified of any petition for judicial approval or the voluntary dissolution of the conjugal partnership, so that any such creditors may appear at the hearing to safeguard his interests. Upon approval of the petition for dissolution of the conjugal partnership, the court shall take such measures as may protect the creditors and other third persons.

After dissolution of the conjugal partnership, the provisions of articles 214 and 215 shall apply. The provisions of this Code concerning the effect of partition stated in articles 498 to 501 shall be applicable. (1433a)

ARTICLE 192. Once the separation of property has been ordered, the conjugal partnership shall be dissolved, and its liquidation shall be made in conformity with what has been established by this Code.

However, without prejudice to the provisions of article 292, the husband and the wife shall be reciprocally liable for their support during the separation, and for the support and education of their children; all in proportion to their respective property.

The share of the spouse who is under civil interdiction or absent shall be administered in accordance with the Rules of Court. (1434a)

ARTICLE 193. The complaint for separation and the final judgment declaring the same, shall be noted and recorded in the proper registers of property, if the judgment should refer to immovable property. (1437)

ARTICLE 194. The separation of property shall not prejudice the rights previously acquired by creditors. (1438)

ARTICLE 195. The separation of property ceases:



- (1) Upon reconciliation of the spouses, in case of legal separation;
- (2) When the civil interdiction terminates;
- (3) When the absent spouse appears;
- (4) When the court, at the instance of the wife, authorizes the husband to resume the administration of the conjugal partnership, the court being satisfied that the husband will not again abuse his powers as an administrator;
- (5) When the husband, who has abandoned the wife, rejoins her.

In the above cases, the property relations between the spouses shall be governed by the same rules as before the separation, without prejudice to the acts and contracts legally executed during the separation.

The spouses shall state, in a public document, all the property which they return to the marriage and which shall constitute the separate property of each.

This public document shall be recorded in the Registry of Property.

In the cases referred to in this article, all the property brought in shall be deemed to be newly contributed, even though all or some may be the same which existed before the liquidation effected by reason of the separation. (1439a)

ARTICLE 196. With the conjugal partnership subsisting, the administration of all classes of property in the marriage may be transferred by the courts to the wife:

- (1) When she becomes the guardian of her husband;
- (2) When she asks for the declaration of his absence;
- (3) In case of civil interdiction of the husband.

The courts may also confer the administration to the wife, with such limitation as they may deem advisable, if the husband should become a fugitive from justice or be in hiding as a defendant in a criminal case, or if, being absolutely unable to administer, he should have failed to provide for administration. (1441a)

ARTICLE 197. The wife to whom the administration of all the property of the marriage is transferred shall have, with respect to said property, the same powers and responsibility which the husband has when he is the administrator, but always subject to the provisions of the last paragraph of the preceding article. (1442a)

## CHAPTER 6

### *System of Absolute Community (n)*

ARTICLE 198. In case the future spouses agree in the marriage settlements that the system of absolute community shall govern their property relations during marriage, the following provisions shall be of supplementary application.

ARTICLE 199. In the absence of stipulation to the contrary, the community shall consist of all present and future property of the spouses not excepted by law.

ARTICLE 200. Neither spouse may renounce any inheritance without the consent of the other. In case of conflict, the court shall decide the question, after consulting the family council, if there is any.

ARTICLE 201. The following shall be excluded from the community:

- (1) Property acquired by gratuitous title by either spouse, when it is provided by the donor or testator that it shall not become a part of the community;
- (2) Property inherited by either husband or wife through the death of a child by a former marriage, there being brothers or sisters of the full blood of the deceased child;
- (3) A portion of the property of either spouse equivalent to the presumptive legitime of the children by a former marriage;
- (4) Personal belongings of either spouse.

However, all the fruits and income of the foregoing classes of property shall be included in the community.

ARTICLE 202. Antenuptial debts of either spouse shall not be paid from the community, unless the same have redounded to the benefit of the family.

ARTICLE 203. Debts contracted by both spouses or by one of them with the consent of the other shall be paid from the community. If the common property is insufficient to cover common debts, the same may be enforced against the separate property of the spouses, who shall be equally liable.

ARTICLE 204. Debts contracted by either spouse without the consent of the other shall be chargeable against the community to the extent that the family may have been benefited thereby.

ARTICLE 205. Indemnities that must be paid by either spouse on account of a crime or of a quasi-delict shall be paid from the common assets, without any obligation to make reimbursement.

ARTICLE 206. The ownership, administration, possession and enjoyment of the common property belong to both spouses jointly. In case of disagreement, the courts shall settle the difficulty.

ARTICLE 207. Neither spouse may alienate or encumber any common property without the consent of the other. In case of unjustifiable refusal by the other spouse, the courts may grant the necessary consent.

ARTICLE 208. The absolute community of property shall be dissolved on any of the grounds specified in article 175.

ARTICLE 209. When there is a separation in fact between husband and wife, without judicial approval, the provisions of article 178 shall apply.

ARTICLE 210. Upon the dissolution and liquidation of the community, the net assets shall be divided equally between the husband and the wife or their heirs. In case of legal separation or annulment of marriage, the provisions of articles 176 and 177 shall apply to the net profits acquired during the marriage.

ARTICLE 211. Liquidation of the absolute community shall be governed by the Rules of Court on the administration of the estate of deceased persons.

## CHAPTER 7

### *System of Complete Separation of Property (n)*

ARTICLE 212. Should the future spouses agree in the marriage settlements that their property relations during marriage shall be based upon the system of complete separation of property, the following provisions shall supplement the marriage settlements.

ARTICLE 213. Separation of property may refer to present or future property or both. It may be total or partial. In the latter case, the property not agreed upon as separate shall pertain to the conjugal partnership of gains.

ARTICLE 214. Each spouse shall own, dispose of, possess, administer and enjoy his or her own separate estate, without the consent of the other. All earnings from any profession, business or industry shall likewise belong to each spouse.

ARTICLE 215. Each spouse shall proportionately bear the family expenses.

## TITLE VII

### *The Family (n)*

## CHAPTER 1

### *The Family as an Institution*

ARTICLE 216. The family is a basic social institution which public policy cherishes and protects.

ARTICLE 217. Family relations shall include those:

- (1) Between husband and wife;
- (2) Between parent and child;
- (3) Among other ascendants and their descendants;
- (4) Among brothers and sisters.

ARTICLE 218. The law governs family relations. No custom, practice or agreement which is destructive of the family shall be recognized or given any effect.

ARTICLE 219. Mutual aid, both moral and material, shall be rendered among members of the same family. Judicial and administrative officials shall foster

this mutual assistance.

ARTICLE 220. In case of doubt, all presumptions favor the solidarity of the family. Thus, every intendment of law or facts leans toward the validity of marriage, the indissolubility of the marriage bonds, the legitimacy of children, the community of property during marriage, the authority of parents over their children, and the validity of defense for any member of the family in case of unlawful aggression.

ARTICLE 221. The following shall be void and of no effect:

- (1) Any contract for personal separation between husband and wife;
- (2) Every extra-judicial agreement, during marriage, for the dissolution of the conjugal partnership of gains or of the absolute community of property between husband and wife;
- (3) Every collusion to obtain a decree of legal separation, or of annulment of marriage;
- (4) Any simulated alienation of property with intent to deprive the compulsory heirs of their legitime.

ARTICLE 222. No suit shall be filed or maintained between members of the same family unless it should appear that earnest efforts toward a compromise have been made, but that the same have failed, subject to the limitations in article 2035.

## CHAPTER 2 *The Family Home (n)*

### Section 1 *General Provisions*

ARTICLE 223. The family home is the dwelling house where a person and his family reside, and the land on which it is situated. If constituted as herein provided, the family home shall be exempt from execution, forced sale or attachment, except as provided in articles 232 and 243.

ARTICLE 224. The family home may be established judicially or extrajudicially.

### Sec. 2 *Judicial Constitution of the Family Home*

ARTICLE 225. The family home may be constituted by a verified petition to the Court of First Instance by the owner of the property, and by approval thereof by the court.

ARTICLE 226. The following shall be beneficiaries of the family home;

- (1) The person establishing the same;
- (2) His or her spouse;
- (3) His or her parents, ascendants, descendants, brothers and sisters, whether the relationship be legitimate or otherwise, who are living in the family home and who depend upon him for support.

ARTICLE 227. The family home may also be set up by an unmarried person who is the head of a family or household.

ARTICLE 228. If the petitioner is married, the family home may be selected from the conjugal partnership or community property, or from the separate property of the husband, or, with the consent of the wife, from her paraphernal property.

ARTICLE 229. The petition shall contain the following particulars:

- (1) Description of the property;
- (2) An estimate of its actual value;
- (3) A statement that the petitioner is actually residing in the premises;
- (4) The encumbrances thereon;
- (5) The names and addresses of all the creditors of the petitioner and of all mortgagees and other persons who have an interest in the property;

(6) The names of the other beneficiaries specified in article 226.

ARTICLE 230. Creditors, mortgagees and all other persons who have an interest in the estate shall be notified of the petition, and given an opportunity to present their objections thereto. The petition shall, moreover, be published once a week for three consecutive weeks in a newspaper of general circulation.

ARTICLE 231. If the court finds that the actual value of the proposed family home does not exceed twenty thousand pesos, or thirty thousand pesos in chartered cities, and that no third person is prejudiced, the petition shall be approved. Should any creditor whose claim is unsecured, oppose the establishment of the family home, the court shall grant the petition if the debtor gives sufficient security for the debt.

ARTICLE 232. The family home, after its creation by virtue of judicial approval, shall be exempt from execution, forced sale, or attachment, except:

(1) For nonpayment of taxes; or

(2) In satisfaction of a judgment on a debt secured by a mortgage constituted on the immovable before or after the establishment of the family home.

In case of insolvency of the person constituting the family home, the property shall not be considered one of the assets to be taken possession of by the assignee for the benefit of creditors.

ARTICLE 233. The order of the court approving the establishment of the family home shall be recorded in the Registry of Property.

ARTICLE 234. When there is danger that a person obliged to give support may lose his or her fortune because of grave mismanagement or on account of riotous living, his or her spouse, if any, and a majority of those entitled to be supported by him or by her may petition the Court of First Instance for the creation of the family home.

ARTICLE 235. The family home may be sold, alienated or encumbered by the person who has constituted the same, with the consent of his or her spouse, and with the approval of the court. However, the family home shall under no circumstances be donated as long as there are beneficiaries. In case of sale, the price or such portion thereof as may be determined by the court shall be used in acquiring property which shall be formed into a new family home. Any sum of money obtained through an encumbrance on the family home shall be used in the interest of the beneficiaries. The court shall take measures to implement the last two provisions.

ARTICLE 236. The family home may be dissolved upon the petition of the person who has constituted the same, with the written consent of his or her spouse and of at least one half of all the other beneficiaries who are eighteen years of age or over. The court may grant the petition if it is satisfactorily shown that the best interest of the family requires the dissolution of the family home.

ARTICLE 237. In case of legal separation or annulment of marriage, the family home shall be dissolved, and the property shall cease to be exempt from execution, forced sale or attachment.

ARTICLE 238. Upon the death of the person who has set up the family home, the same shall continue, unless he desired otherwise in his will. The heirs cannot ask for its partition during the first ten years following the death of the person constituting the same, unless the court finds powerful reasons therefor.

ARTICLE 239. The family home shall not be subject to payment of the debts of the deceased, unless in his will the contrary is stated. However, the claims mentioned in article 232 shall not be adversely affected by the death of the person who has established the family home.

### Sec. 3

#### *Extra-judicial Creation of the Family Home*

ARTICLE 240. The family home may be extrajudicially constituted by recording in the Registry of Property a public instrument wherein a person declares that he thereby establishes a family home out of a dwelling place with the land on which it is situated.

ARTICLE 241. The declaration setting up the family home shall be under oath and shall contain:

(1) A statement that the claimant is the owner of, and is actually residing in the premises;

(2) A description of the property;

(3) An estimate of its actual value; and

(4) The names of the claimant's spouse and the other beneficiaries mentioned in article 226.

ARTICLE 242. The recording in the Registry of Property of the declaration referred to in the two preceding articles is the operative act which creates the family home.

ARTICLE 243. The family home extrajudicially formed shall be exempt from execution, forced sale or attachment, except:

- (1) For nonpayment of taxes;
- (2) For debts incurred before the declaration was recorded in the Registry of Property;
- (3) For debts secured by mortgages on the premises before or after such record of the declaration;
- (4) For debts due to laborers, mechanics, architects, builders, material-men and others who have rendered service or furnished material for the prosecution of the building.

ARTICLE 244. The provisions of articles 226 to 228 and 235 to 238 are likewise applicable to family homes extrajudicially established.

ARTICLE 245. Upon the death of the person who has extrajudicially constituted the family home, the property shall not be liable for his debts other than those mentioned in article 243. However, he may provide in his will that the family home shall be subject to payment of debts not specified in article 243.

ARTICLE 246. No declaration for the extrajudicial establishment of the family home shall be recorded in the Registry of Property if the estimated actual value of the building and the land exceeds the amount stated in article 231.

ARTICLE 247. When a creditor whose claim is not mentioned in article 243 obtains a judgment in his favor, and he has reasonable grounds to believe that the family home of the judgment debtor is worth more than the amount mentioned in article 231, he may apply to the Court of First Instance for an order directing the sale of the property under execution.

ARTICLE 248. The hearing on the petition, appraisal of the value of the family home, the sale under execution and other matters relative to the proceedings shall be governed by such provisions in the Rules of Court as the Supreme Court shall promulgate on the subject, provided they are not inconsistent with this Code.

ARTICLE 249. At the sale under execution referred to in the two preceding articles, no bid shall be considered unless it exceeds the amount specified in article 231. The proceeds of the sale shall be applied in the following order:

- (1) To the amount mentioned in article 231;
- (2) To the judgment and the costs.

The excess, if any, belongs to the person constituting the family home.

ARTICLE 250. The amount mentioned in article 231 thus received by the person who has established the family home, or as much thereof as the court may determine, shall be invested in constitution of a new family home. The court shall take measures to enforce this provision.

ARTICLE 251. In case of insolvency of the person creating the family home, the claims specified in article 243 may be satisfied notwithstanding the insolvency proceedings.

If the assignee has reasonable grounds to believe that the actual value of the family home exceeds the amount fixed in article 231, he may take action under the provisions of articles 247, 248 and 249.

### CHAPTER 3 *The Family Council (n)*

ARTICLE 252. The Court of First Instance may, upon application of any member of the family, a relative, or a friend, appoint a family council, whose duty it shall be to advise the court, the spouses, the parents, guardians and the family on important family questions.

ARTICLE 253. The family council shall be composed of five members, who shall be relatives of the parties concerned. But the court may appoint one or two friends of the family.

ARTICLE 254. The family council shall elect its chairman, and shall meet at the call of the latter or upon order of the court.

### TITLE VIII *Paternity and Filiation*

#### CHAPTER 1 *Legitimate Children*

ARTICLE 255. Children born after one hundred and eighty days following the celebration of the marriage, and before three hundred days following its dissolution or the separation of the spouses shall be presumed to be legitimate.

Against this presumption no evidence shall be admitted other than that of the physical impossibility of the husband's having access to his wife within the first one hundred and twenty days of the three hundred which preceded the birth of the child.

This physical impossibility may be caused:

- (1) By the impotence of the husband;
- (2) By the fact that the husband and wife were living separately, in such a way that access was not possible;
- (3) By the serious illness of the husband. (108a)

ARTICLE 256. The child shall be presumed legitimate, although the mother may have declared against its legitimacy or may have been sentenced as an adulteress. (109)

ARTICLE 257. Should the wife commit adultery at or about the time of the conception of the child, but there was no physical impossibility of access between her and her husband as set forth in article 255, the child is prima facie presumed to be illegitimate if it appears highly improbable, for ethnic reasons, that the child is that of the husband. For the purposes of this article, the wife's adultery need not be proved in a criminal case. (n)

ARTICLE 258. A child born within one hundred eighty days following the celebration of the marriage is prima facie presumed to be legitimate. Such a child is conclusively presumed to be legitimate in any of these cases:

- (1) If the husband, before the marriage, knew of the pregnancy of the wife;
- (2) If he consented, being present, to the putting of his surname on the record of birth of the child;
- (3) If he expressly or tacitly recognized the child as his own. (110a)

ARTICLE 259. If the marriage is dissolved by the death of the husband, and the mother contracted another marriage within three hundred days following such death, these rules shall govern:

- (1) A child born before one hundred eighty days after the solemnization of the subsequent marriage is disputably presumed to have been conceived during the former marriage, provided it be born within three hundred days after the death of the former husband:
- (2) A child born after one hundred eighty days following the celebration of the subsequent marriage is prima facie presumed to have been conceived during such marriage, even though it be born within three hundred days after the death of the former husband. (n)

ARTICLE 260. If after a judgment annulling a marriage, the former wife should believe herself to be pregnant by the former husband, she shall, within thirty days from the time she became aware of her pregnancy, notify the former husband or his heirs of that fact. He or his heirs may ask the court to take measures to prevent a simulation of birth.

The same obligation shall devolve upon a widow who believes herself to have been left pregnant by the deceased husband, or upon the wife who believes herself to be pregnant by her husband from whom she has been legally separated. (n)

ARTICLE 261. There is no presumption of legitimacy or illegitimacy of a child born after three hundred days following the dissolution of the marriage or the separation of the spouses. Whoever alleges the legitimacy or the illegitimacy of such child must prove his allegation. (n)

ARTICLE 262. The heirs of the husband may impugn the legitimacy of the child only in the following cases:

- (1) If the husband should die before the expiration of the period fixed for bringing his action;
- (2) If he should die after the filing of the complaint, without having desisted from the same;
- (3) If the child was born after the death of the husband. (112)

ARTICLE 263. The action to impugn the legitimacy of the child shall be brought within one year from the recording of the birth in the Civil Register, if the husband should be in the same place, or in a proper case, any of his heirs.

If he or his heirs are absent, the period shall be eighteen months if they should reside in the Philippines; and two years if abroad. If the birth of the child has been concealed, the term shall be counted from the discovery of the fraud. (113a)

ARTICLE 264. Legitimate children shall have the right:

- (1) To bear the surnames of the father and of the mother;
- (2) To receive support from them, from their ascendants and in a proper case, from their brothers and sisters, in conformity with article 291;
- (3) To the legitime and other successional rights which this Code recognizes in their favor. (114)

## CHAPTER 2

### *Proof of Filiation of Legitimate Children*

ARTICLE 265. The filiation of legitimate children is proved by the record of birth appearing in the Civil Register, or by an authentic document or a final judgment. (115)

ARTICLE 266. In the absence of the titles indicated in the preceding article, the filiation shall be proved by the continuous possession of status of a legitimate child. (116)

ARTICLE 267. In the absence of a record of birth, authentic document, final judgment or possession of status, legitimate filiation may be proved by any other means allowed by the Rules of Court and special laws. (117a)

ARTICLE 268. The action to claim his legitimacy may be brought by the child during all his lifetime, and shall be transmitted to his heirs if he should die during his minority or in a state of insanity. In these cases the heirs shall have a period of five years within which to institute the action.

The action already commenced by the child is transmitted upon his death to the heirs, if the proceeding has not yet lapsed. (118)

## CHAPTER 3

### *Legitimated Children*

ARTICLE 269. Only natural children can be legitimated. Children born outside wedlock of parents who, at the time of the conception of the former, were not disqualified by any impediment to marry each other, are natural. (119a)

ARTICLE 270. Legitimation shall take place by the subsequent marriage between the parents. (120a)

ARTICLE 271. Only natural children who have been recognized by the parents before or after the celebration of the marriage, or have been declared natural children by final judgment, may be considered legitimated by subsequent marriage.

If a natural child is recognized or judicially declared as natural, such recognition or declaration shall extend to his or her brothers or sisters of the full blood: Provided, That the consent of the latter shall be implied if they do not impugn the recognition within four years from the time of such recognition, or in case they are minors, within four years following the attainment of majority. (121a)

ARTICLE 272. Children who are legitimated by subsequent marriage shall enjoy the same rights as legitimate children. (122)

ARTICLE 273. Legitimation shall take effect from the time of the child's birth. (123a)

ARTICLE 274. The legitimation of children who died before the celebration of the marriage shall benefit their descendants. (124)

ARTICLE 275. Legitimation may be impugned by those who are prejudiced in their rights, when it takes place in favor of those who do not have the legal condition of natural children or when the requisites laid down in this Chapter are not complied with. (128a)

## CHAPTER 4

### *Illegitimate Children*

#### Section 1

#### *Recognition of Natural Children*

ARTICLE 276. A natural child may be recognized by the father and mother jointly, or by only one of them. (129)

ARTICLE 277. In case the recognition is made by only one of the parents, it shall be presumed that the child is natural, if the parent recognizing it had legal capacity to contract marriage at the time of the conception. (130)

ARTICLE 278. Recognition shall be made in the record of birth, a will, a statement before a court of record, or in any authentic writing. (131a)

ARTICLE 279. A minor who may not contract marriage without parental consent cannot acknowledge a natural child, unless the parent or guardian approves the acknowledgment or unless the recognition is made in a will. (n)

ARTICLE 280. When the father or the mother makes the recognition separately, he or she shall not reveal the name of the person with whom he or she had the child; neither shall he or she state any circumstance whereby the other parent may be identified. (132a)

ARTICLE 281. A child who is of age cannot be recognized without his consent.

When the recognition of a minor does not take place in a record of birth or in a will, judicial approval shall be necessary.

A minor can in any case impugn the recognition within four years following the attainment of his majority. (133a)

ARTICLE 282. A recognized natural child has the right:

- (1) To bear the surname of the parent recognizing him;
- (2) To receive support from such parent, in conformity with article 291;
- (3) To receive, in a proper case, the hereditary portion which is determined in this Code. (134)

ARTICLE 283. In any of the following cases, the father is obliged to recognize the child as his natural child:

- (1) In cases of rape, abduction or seduction, when the period of the offense coincides more or less with that of the conception;
- (2) When the child is in continuous possession of status of a child of the alleged father by the direct acts of the latter or of his family;
- (3) When the child was conceived during the time when the mother cohabited with the supposed father;
- (4) When the child has in his favor any evidence or proof that the defendant is his father. (n)

ARTICLE 284. The mother is obliged to recognize her natural child:

- (1) In any of the cases referred to in the preceding article, as between the child and the mother;
- (2) When the birth and the identity of the child are clearly proved. (136a)

ARTICLE 285. The action for the recognition of natural children may be brought only during the lifetime of the presumed parents, except in the following cases:

- (1) If the father or mother died during the minority of the child, in which case the latter may file the action before the expiration of four years from the attainment of his majority;
- (2) If after the death of the father or of the mother a document should appear of which nothing had been heard and in which either or both parents recognize the child.

In this case, the action must be commenced within four years from the finding of the document. (137a)

ARTICLE 286. The recognition made in favor of a child who does not possess all the conditions stated in article 269, or in which the requirements of the law have not been fulfilled, may be impugned by those who are prejudiced by such recognition. (137)

## Sec. 2 *Other Illegitimate Children*

ARTICLE 287. Illegitimate children other than natural in accordance with article 269 and other than natural children by legal fiction are entitled to support and such successional rights as are granted in this Code. (n)

ARTICLE 288. Minor children mentioned in the preceding article are under the parental authority of the mother. (n)

ARTICLE 289. Investigation of the paternity or maternity of children mentioned in the two preceding articles is permitted under the circumstances specified in articles 283 and 284. (n)

## TITLE IX *Support*

ARTICLE 290. Support is everything that is indispensable for sustenance, dwelling, clothing and medical attendance, according to the social position of the family.



Support also includes the education of the person entitled to be supported until he completes his education or training for some profession, trade or vocation, even beyond the age of majority. (142a)

ARTICLE 291. The following are obliged to support each other to the whole extent set forth in the preceding article:

- (1) The spouses;
- (2) Legitimate ascendants and descendants;
- (3) Parents and acknowledged natural children and the legitimate or illegitimate descendants of the latter;
- (4) Parents and natural children by legal fiction and the legitimate and illegitimate descendants of the latter;
- (5) Parents and illegitimate children who are not natural.

Brothers and sisters owe their legitimate and natural brothers and sisters, although they are only of the half-blood, the necessities for life, when by a physical or mental defect, or any other cause not imputable to the recipients, the latter cannot secure their subsistence. This assistance includes, in a proper case, expenses necessary for elementary education and for professional or vocational training. (143a)

ARTICLE 292. During the proceedings for legal separation, or for annulment of marriage, the spouses and children, shall be supported from the conjugal partnership property. After the final judgment of legal separation, or of annulment of marriage, the obligation of mutual support between the spouses ceases. However, in case of legal separation, the court may order that the guilty spouse shall give support to the innocent one, the judgment specifying the terms of such order. (n)

ARTICLE 293. In an action for legal separation or annulment of marriage, attorney's fees and expenses for litigation shall be charged to the conjugal partnership property, unless the action fails. (n)

ARTICLE 294. The claim for support, when proper and two or more persons are obliged to give it, shall be made in the following order:

- (1) From the spouse;
- (2) From the descendants of the nearest degree;
- (3) From the ascendants, also of the nearest degree;
- (4) From the brothers and sisters.

Among descendants and ascendants the order in which they are called to the intestate succession of the person who has a right to claim support shall be observed. (144)

ARTICLE 295. When the obligation to give support falls upon two or more persons, the payment of the same shall be divided between them in proportion to the resources of each.

However, in case of urgent need and by special circumstances, the judge may order only one of them to furnish the support provisionally, without prejudice to his right to claim from the other obligors the share due from them.

When two or more recipients at the same time claim support from one and the same person legally obliged to give it, and the latter should not have sufficient means to satisfy all, the order established in the preceding article shall be followed, unless the concurrent obligees should be the spouse and a child subject to parental authority, in which case the latter shall be preferred. (145)

ARTICLE 296. The amount of support, in the cases referred to in the five numbers of article 291, shall be in proportion to the resources or means of the giver and to the necessities of the recipient. (146a)

ARTICLE 297. Support in the cases referred to in the preceding article shall be reduced or increased proportionately, according to the reduction or increase of the needs of the recipient and the resources of the person obliged to furnish the same. (147)

ARTICLE 298. The obligation to give support shall be demandable from the time the person who has a right to receive the same needs it for maintenance, but it shall not be paid except from the date it is extrajudicially demanded.

Payment shall be made monthly in advance, and when the recipient dies, his heirs shall not be obliged to return what he has received in advance. (148a)

ARTICLE 299. The person obliged to give support may, at his option, fulfill his obligation either by paying the allowance fixed, or by receiving and maintaining in his house the person who has a right to receive support. The latter alternative cannot be availed of in case there is a moral or legal

obstacle thereto. (149a)

ARTICLE 300. The obligation to furnish support ceases upon the death of the obligor, even if he may be bound to give it in compliance with a final judgment. (150)

ARTICLE 301. The right to receive support cannot be renounced; nor can it be transmitted to a third person. Neither can it be compensated with what the recipient owes the obligor.

However, support in arrears may be compensated and renounced, and the right to demand the same may be transmitted by onerous or gratuitous title. (151)

ARTICLE 302. Neither the right to receive legal support nor any money or property obtained as such support or any pension or gratuity from the government is subject to attachment or execution. (n)

ARTICLE 303. The obligation to give support shall also cease:

(1) Upon the death of the recipient;

(2) When the resources of the obligor have been reduced to the point where he cannot give the support without neglecting his own needs and those of his family;

(3) When the recipient may engage in a trade, profession, or industry, or has obtained work, or has improved his fortune in such a way that he no longer needs the allowance for his subsistence;

(4) When the recipient, be he a forced heir or not, has committed some act which gives rise to disinheritance;

(5) When the recipient is a descendant, brother or sister of the obligor and the need for support is caused by his or her bad conduct or by the lack of application to work, so long as this cause subsists. (152a)

ARTICLE 304. The foregoing provisions shall be applicable to other cases where, in virtue of this Code or of any other law, by will, or by stipulation there is a right to receive support, save what is stipulated, ordered by the testator or provided by law for the special case. (153a)

#### TITLE X *Funerals (n)*

ARTICLE 305. The duty and the right to make arrangements for the funeral of a relative shall be in accordance with the order established for support, under article 294. In case of descendants of the same degree, or of brothers and sisters, the oldest shall be preferred. In case of ascendants, the paternal shall have a better right.

ARTICLE 306. Every funeral shall be in keeping with the social position of the deceased.

ARTICLE 307. The funeral shall be in accordance with the expressed wishes of the deceased. In the absence of such expression, his religious beliefs or affiliation shall determine the funeral rites. In case of doubt, the form of the funeral shall be decided upon by the person obliged to make arrangements for the same, after consulting the other members of the family.

ARTICLE 308. No human remains shall be retained, interred, disposed of or exhumed without the consent of the persons mentioned in articles 294 and 305.

ARTICLE 309. Any person who shows disrespect to the dead, or wrongfully interferes with a funeral shall be liable to the family of the deceased for damages, material and moral.

ARTICLE 310. The construction of a tombstone or mausoleum shall be deemed a part of the funeral expenses, and shall be chargeable to the conjugal partnership property, if the deceased is one of the spouses.

#### TITLE XI *Parental Authority*

##### CHAPTER 1 *General Provisions*

ARTICLE 311. The father and mother jointly exercise parental authority over their legitimate children who are not emancipated. In case of disagreement, the father's decision shall prevail, unless there is a judicial order to the contrary.

Children are obliged to obey their parents so long as they are under parental power, and to observe respect and reverence toward them always.

Recognized natural and adopted children who are under the age of majority are under the parental authority of the father or mother recognizing or adopting them, and are under the same obligation stated in the preceding paragraph.

Natural children by legal fiction are under the joint authority of the father and mother, as provided in the first paragraph of this article. (154a)

ARTICLE 312. Grandparents shall be consulted by all members of the family on all important family questions. (n)

ARTICLE 313. Parental authority cannot be renounced or transferred, except in cases of guardianship or adoption approved by the courts, or emancipation by concession.

The courts may, in cases specified by law, deprive parents of their authority. (n)

ARTICLE 314. A foundling shall be under the parental authority of the person or institution that has reared the same. (n)

ARTICLE 315. No descendant can be compelled, in a criminal case, to testify against his parents and ascendants. (n)

## CHAPTER 2

### *Effect of Parental Authority Upon the Persons of the Children*

ARTICLE 316. The father and the mother have, with respect to their unemancipated children:

(1) The duty to support them, to have them in their company, educate and instruct them in keeping with their means, and to represent them in all actions which may redound to their benefit;

(2) The power to correct them and to punish them moderately. (155)

ARTICLE 317. The courts may appoint a guardian of the child's property, or a guardian ad litem when the best interest of the child so requires. (n)

ARTICLE 318. Upon cause being shown by the parents, the local mayor mayd them in the exercise of their authority over the child. If the child is to be kept in a children's home or similar institution for not more than one month, an order of the justice of the peace or municipal judge shall be necessary, after due hearing, where the child shall be heard. For his purpose, the court may appoint a guardian ad litem. (156a)

ARTICLE 319. The father and the mother shall satisfy the support for the detained child; but they shall not have any intervention in the regime of the institution where the child is detained. They may lift the detention when they deem it opportune, with the approval of the court. (158a)

## CHAPTER 3

### *Effect of Parental Authority on the Property of the Children*

ARTICLE 320. The father, or in his absence the mother, is the legal administrator of the property pertaining to the child under parental authority. If the property is worth more than two thousand pesos, the father or mother shall give a bond subject to the approval of the Court of First Instance. (159a)

ARTICLE 321. The property which the unemancipated child has acquired or may acquire with his work or industry, or by any lucrative title, belongs to the child in ownership, and in usufruct to the father or mother under whom he is under parental authority and in whose company he lives; but if the child, with the parent's consent, should live independently from them, he shall be considered as emancipated for all purposes relative to said property, and he shall have over it dominion, usufruct and administration. (160)

ARTICLE 322. A child who earns money or acquires property with his own work or industry shall be entitled to a reasonable allowance from the earnings, in addition to the expenses made by the parents for his support and education. (n)

ARTICLE 323. The fruits and interest of the child's property referred to in article 321 shall be applied first to the expenses for the support and education of the child. After they have been fully met, the debts of the conjugal partnership which have redounded to the benefit of the family may be paid from said fruits and interest. (n)

ARTICLE 324. Whatever the child may acquire with the capital or property of the parents belongs to the latter in ownership and in usufruct. But if the parents should expressly grant him all or part of the profits that he may obtain, such profits shall not be charged against his legitime. (161)

ARTICLE 325. The property or income donated, bequeathed or devised to the unemancipated child for the expenses of his education and instruction shall pertain to him in ownership and usufruct; but the father or mother shall administer the same, if in the donation or testamentary provision the contrary has not been stated. (162)

ARTICLE 326. When the property of the child is worth more than two thousand pesos, the father or mother shall be considered a guardian of the child's property, subject to the duties and obligations of guardians under the Rules of Court. (n)

CHAPTER 4  
*Extinguishment of Parental Authority*

ARTICLE 327. Parental authority terminates:

- (1) Upon the death of the parents or of the child;
- (2) Upon emancipation;
- (3) Upon adoption of the child;
- (4) Upon the appointment of a general guardian. (167a)

ARTICLE 328. The mother who contracts a subsequent marriage loses the parental authority over her children, unless the deceased husband, father of the latter, has expressly provided in his will that his widow might marry again, and has ordered that in such case she should keep and exercise parental authority over their children.

The court may also appoint a guardian of the child's property in case the father should contract a subsequent marriage. (168a)

ARTICLE 329. When the mother of an illegitimate child marries a man other than its father, the court may appoint a guardian for the child. (n)

ARTICLE 330. The father and in a proper case the mother, shall lose authority over their children:

- (1) When by final judgment in a criminal case the penalty of deprivation of said authority is imposed upon him or her;
- (2) When by a final judgment in legal separation proceedings such loss of authority is declared. (169a)

ARTICLE 331. Parental authority is suspended by the incapacity or absence of the father, or in a proper case of the mother, judicially declared, and also by civil interdiction. (170)

ARTICLE 332. The courts may deprive the parents of their authority or suspend the exercise of the same if they should treat their children with excessive harshness or should give them corrupting orders, counsels, or examples, or should make them beg or abandon them. In these cases, the courts may also deprive the parents in whole or in part, of the usufruct over the child's property, or adopt such measures as they may deem advisable in the interest of the child. (171a)

ARTICLE 333. If the widowed mother who has contracted a subsequent marriage should again become a widow, she shall recover from this moment her parental authority over all her unemancipated children. (172)

CHAPTER 5  
*Adoption*

ARTICLE 334. Every person of age, who is in full possession of his civil rights, may adopt. (173a)

ARTICLE 335. The following cannot adopt:

- (1) Those who have legitimate, legitimated, acknowledged natural children, or natural children by legal fiction;
- (2) The guardian, with respect to the ward, before the final approval of his accounts;
- (3) A married person, without the consent of the other spouse;
- (4) Non-resident aliens;
- (5) Resident aliens with whose government the Republic of the Philippines has broken diplomatic relations;
- (6) Any person who has been convicted of a crime involving moral turpitude, when the penalty imposed was six months' imprisonment or more. (174a)

ARTICLE 336. The husband and wife may jointly adopt. Parental authority shall, in such case, be exercised as if the child were their own by nature. (n)

ARTICLE 337. Any person, even if of age, may be adopted, provided the adopter is sixteen years older. (173a)

ARTICLE 338. The following may be adopted:

- (1) The natural child, by the natural father or mother;
- (2) Other illegitimate children, by the father or mother;
- (3) A step-child, by the step-father or step-mother. (n)

ARTICLE 339. The following cannot be adopted:

- (1) A married person, without the written consent of the other spouse;
- (2) An alien with whose government the Republic of the Philippines has broken diplomatic relations;
- (3) A person who has already been adopted. (n)

ARTICLE 340. The written consent of the following to the adoption shall be necessary:

- (1) The person to be adopted, if fourteen years of age or over;
- (2) The parents, guardian or person in charge of the person to be adopted. (n)

ARTICLE 341. The adoption shall:

- (1) Give to the adopted person the same rights and duties as if he were a legitimate child of the adopter;
- (2) Dissolve the authority vested in the parents by nature;
- (3) Make the adopted person a legal heir of the adopter;
- (4) Entitle the adopted person to use the adopter's surname. (n)

ARTICLE 342. The adopter shall not be a legal heir of the adopted person, whose parents by nature shall inherit from him. (177a)

ARTICLE 343. If the adopter is survived by legitimate parents or ascendants and by an adopted person, the latter shall not have more successional rights than an acknowledged natural child. (n)

ARTICLE 344. The adopter may donate property, by an act inter vivos or by will, to the adopted person, who shall acquire ownership thereof. (n)

ARTICLE 345. The proceedings for adoption shall be governed by the Rules of Court insofar as they are not in conflict with this Code. (n)

ARTICLE 346. The adoption shall be recorded in the local civil register. (179a)

ARTICLE 347. A minor or other incapacitated person may, through a guardian ad litem, ask for the rescission of the adoption on the same grounds that cause the loss of parental authority. (n)

ARTICLE 348. The adopter may petition the court for revocation of the adoption in any of these cases:

- (1) If the adopted person has attempted against the life of the adopter;
- (2) When the adopted minor has abandoned the home of the adopter for more than three years;
- (3) When by other acts the adopted person has definitely repudiated the adoption. (n)

## CHAPTER 6

### Substitute Parental Authority (n)

ARTICLE 349. The following persons shall exercise substitute parental authority:

- (1) Guardians;
- (2) Teachers and professors;
- (3) Heads of children's homes, orphanages, and similar institutions;
- (4) Directors of trade establishments, with regard to apprentices;

(5) Grandparents;

(6) The oldest brother or sister.

ARTICLE 350. The persons named in the preceding article shall exercise reasonable supervision over the conduct of the child.

ARTICLE 351. A general guardian or a guardian over the person shall have the same authority over the ward's person as the parents. With regard to the child's property, the Rules of Court on guardianship shall govern.

ARTICLE 352. The relations between teacher and pupil, professor and student, are fixed by government regulations and those of each school or institution. In no case shall corporal punishment be countenanced. The teacher or professor shall cultivate the best potentialities of the heart and mind of the pupil or student.

ARTICLE 353. Apprentices shall be treated humanely. No corporal punishment against the apprentice shall be permitted.

ARTICLE 354. Grandparents and in their default the oldest brother or sister shall exercise parental authority in case of death or absence of the child's parents. If the parents are living, or if the child is under guardianship, the grandparents may give advice and counsel to the child, to the parents or to the guardian.

ARTICLE 355. Substitute parental authority shall be exercised by the grandparents in the following order:

(1) Paternal grandparents;

(2) Maternal grandparents.

## TITLE XII *Care and Education of Children*

ARTICLE 356. Every child:

(1) Is entitled to parental care;

(2) Shall receive at least elementary education;

(3) Shall be given moral and civic training by the parents or guardian;

(4) Has a right to live in an atmosphere conducive to his physical, moral and intellectual development.

ARTICLE 357. Every child shall:

(1) Obey and honor his parents or guardian;

(2) Respect his grandparents, old relatives, and persons holding substitute parental authority;

(3) Exert his utmost for his education and training;

(4) Cooperate with the family in all matters that make for the good of the same.

ARTICLE 358. Every parent and every person holding substitute parental authority shall see to it that the rights of the child are respected and his duties complied with, and shall particularly, by precept and example, imbue the child with highmindedness, love of country, veneration for the national heroes, fidelity to democracy as a way of life, and attachment to the ideal of permanent world peace.

ARTICLE 359. The government promotes the full growth of the faculties of every child. For this purpose, the government will establish, whenever possible:

(1) Schools in every barrio, municipality and city where optional religious instruction shall be taught as part of the curriculum at the option of the parent or guardian;

(2) Puericulture and similar centers;

(3) Councils for the Protection of Children; and

(4) Juvenile courts.

ARTICLE 360. The Council for the Protection of Children shall look after the welfare of children in the municipality. It shall, among other functions:

- (1) Foster the education of every child in the municipality;
- (2) Encourage the cultivation of the duties of parents;
- (3) Protect and assist abandoned or mistreated children, and orphans;
- (4) Take steps to prevent juvenile delinquency;
- (5) Adopt measures for the health of children;
- (6) Promote the opening and maintenance of playgrounds;
- (7) Coordinate the activities of organizations devoted to the welfare of children, and secure their cooperation.

ARTICLE 361. Juvenile courts will be established, as far as practicable, in every chartered city or large municipality.

ARTICLE 362. Whenever a child is found delinquent by any court, the father, mother, or guardian may in a proper case be judicially admonished.

ARTICLE 363. In all questions on the care, custody, education and property of children the latter's welfare shall be paramount. No mother shall be separated from her child under seven years of age, unless the court finds compelling reasons for such measure.

### TITLE XIII *Use of Surnames (n)*

ARTICLE 364. Legitimate and legitimated children shall principally use the surname of the father.

ARTICLE 365. An adopted child shall bear the surname of the adopter.

ARTICLE 366. A natural child acknowledged by both parents shall principally use the surname of the father. If recognized by only one of the parents, a natural child shall employ the surname of the recognizing parent.

ARTICLE 367. Natural children by legal fiction shall principally employ the surname of the father.

ARTICLE 368. Illegitimate children referred to in article 287 shall bear the surname of the mother.

ARTICLE 369. Children conceived before the decree annulling a voidable marriage shall principally use the surname of the father.

ARTICLE 370. A married woman may use:

- (1) Her maiden first name and surname and add her husband's surname, or
- (2) Her maiden first name and her husband's surname or
- (3) Her husband's full name, but prefixing a word indicating that she is his wife, such as "Mrs."

ARTICLE 371. In case of annulment of marriage, and the wife is the guilty party, she shall resume her maiden name and surname. If she is the innocent spouse, she may resume her maiden name and surname. However, she may choose to continue employing her former husband's surname, unless:

- (1) The court decrees otherwise, or
- (2) She or the former husband is married again to another person.

ARTICLE 372. When legal separation has been granted, the wife shall continue using her name and surname employed before the legal separation.

ARTICLE 373. A widow may use the deceased husband's surname as though he were still living, in accordance with article 370.

ARTICLE 374. In case of identity of names and surnames, the younger person shall be obliged to use such additional name or surname as will avoid confusion.

ARTICLE 375. In case of identity of names and surnames between ascendants and descendants, the word "Junior" can be used only by a son.

Grandsons and other direct male descendants shall either:

- (1) Add a middle name or the mother's surname, or
- (2) Add the Roman numerals II, III, and so on.

ARTICLE 376. No person can change his name or surname without judicial authority.

ARTICLE 377. Usurpation of a name and surname may be the subject of an action for damages and other relief.

ARTICLE 378. The unauthorized or unlawful use of another person's surname gives a right of action to the latter.

ARTICLE 379. The employment of pen names or stage names is permitted, provided it is done in good faith and there is no injury to third persons. Pen names and stage names cannot be usurped.

ARTICLE 380. Except as provided in the preceding article, no person shall use different names and surnames.

## TITLE XIV

### *Absence*

#### CHAPTER 1

##### *Provisional Measures in Case of Absence*

ARTICLE 381. When a person disappears from his domicile, his whereabouts being unknown, and without leaving an agent to administer his property, the judge, at the instance of an interested party, a relative, or a friend, may appoint a person to represent him in all that may be necessary.

This same rule shall be observed when under similar circumstances the power conferred by the absentee has expired. (181a)

ARTICLE 382. The appointment referred to in the preceding article having been made, the judge shall take the necessary measures to safeguard the rights and interests of the absentee and shall specify the powers, obligations and remuneration of his representative, regulating them, according to the circumstances, by the rules concerning guardians. (182)

ARTICLE 383. In the appointment of a representative, the spouse present shall be preferred when there is no legal separation.

If the absentee left no spouse, or if the spouse present is a minor, any competent person may be appointed by the court. (183a)

#### CHAPTER 2

##### *Declaration of Absence*

ARTICLE 384. Two years having elapsed without any news about the absentee or since the receipt of the last news, and five years in case the absentee has left a person in charge of the administration of his property, his absence may be declared. (184)

ARTICLE 385. The following may ask for the declaration of absence:

- (1) The spouse present;
- (2) The heirs instituted in a will, who may present an authentic copy of the same;
- (3) The relatives who may succeed by the law of intestacy;
- (4) Those who may have over the property of the absentee some right subordinated to the condition of his death. (185)

ARTICLE 386. The judicial declaration of absence shall not take effect until six months after its publication in a newspaper of general circulation. (186a)

#### CHAPTER 3

##### *Administration of the Property of the Absentee*

ARTICLE 387. An administrator of the absentee's property shall be appointed in accordance with article 383. (187a)

ARTICLE 388. The wife who is appointed as an administratrix of the husband's property cannot alienate or encumber the husband's property, or that of the conjugal partnership, without judicial authority. (188a)

ARTICLE 389. The administration shall cease in any of the following cases:



- (1) When the absentee appears personally or by means of an agent;
- (2) When the death of the absentee is proved and his testate or intestate heirs appear;
- (3) When a third person appears, showing by a proper document that he has acquired the absentee's property by purchase or other title.

In these cases the administrator shall cease in the performance of his office, and the property shall be at the disposal of those who may have a right thereto. (190)

#### CHAPTER 4 *Presumption of Death*

ARTICLE 390. After an absence of seven years, it being unknown whether or not the absentee still lives, he shall be presumed dead for all purposes, except for those of succession.

The absentee shall not be presumed dead for the purpose of opening his succession till after an absence of ten years. If he disappeared after the age of seventy-five years, an absence of five years shall be sufficient in order that his succession may be opened. (n)

ARTICLE 391. The following shall be presumed dead for all purposes, including the division of the estate among the heirs:

- (1) A person on board a vessel lost during a sea voyage, or an aeroplane which is missing, who has not been heard of for four years since the loss of the vessel or aeroplane;
- (2) A person in the armed forces who has taken part in war, and has been missing for four years;
- (3) A person who has been in danger of death under other circumstances and his existence has not been known for four years. (n)

ARTICLE 392. If the absentee appears, or without appearing his existence is proved, he shall recover his property in the condition in which it may be found, and the price of any property that may have been alienated or the property acquired therewith; but he cannot claim either fruits or rents. (194)

#### CHAPTER 5 *Effect of Absence Upon the Contingent Rights of the Absentee*

ARTICLE 393. Whoever claims a right pertaining to a person whose existence is not recognized must prove that he was living at the time his existence was necessary in order to acquire said right. (195)

ARTICLE 394. Without prejudice to the provision of the preceding article, upon the opening of a succession to which an absentee is called, his share shall accrue to his coheirs, unless he has heirs, assigns, or a representative. They shall all, as the case may be, make an inventory of the property. (196a)

ARTICLE 395. The provisions of the preceding article are understood to be without prejudice to the action of petition for inheritance or other rights which are vested in the absentee, his representatives or successors in interest. These rights shall not be extinguished save by lapse of time fixed for prescription. In the record that is made in the Registry of the real estate which accrues to the coheirs, the circumstance of its being subject to the provisions of this article shall be stated. (197)

ARTICLE 396. Those who may have entered upon the inheritance shall appropriate the fruits received in good faith so long as the absentee does not appear, or while his representatives or successors in interest do not bring the proper actions. (198)

#### TITLE XV *Emancipation and Age of Majority*

##### CHAPTER 1 *Emancipation*

ARTICLE 397. Emancipation takes place:

- (1) By the marriage of the minor;
- (2) By the attainment of majority;
- (3) By the concession of the father or of the mother who exercise parental authority. (314)

ARTICLE 398. Emancipation treated of in No. 3 of the preceding article shall be effected in a public instrument which shall be recorded in the Civil Register, and unless so recorded, it shall take no effect against third persons. (316a)

ARTICLE 399. Emancipation by marriage or by voluntary concession shall terminate parental authority over the child's person. It shall enable the minor to administer his property as though he were of age, but he cannot borrow money or alienate or encumber real property without the consent of his father or mother, or guardian. He can sue and be sued in court only with the assistance of his father, mother or guardian. (317a)

ARTICLE 400. In order that emancipation by concession of the father or of the mother may take place, it is required that the minor be eighteen years of age, and that he give his consent thereto. (318)

ARTICLE 401. Emancipation is final or irrevocable. (319a)

## CHAPTER 2 *Age of Majority*

ARTICLE 402. Majority commences upon the attainment of the age of twenty-one years.

The person who has reached majority is qualified for all acts of civil life, save the exceptions established by this Code in special cases. (320a)

ARTICLE 403. Notwithstanding the provisions of the preceding article, a daughter above twenty-one but below twenty-three years of age cannot leave the parental home without the consent of the father or mother in whose company she lives, except to become a wife, or when she exercises a profession or calling, or when the father or mother has contracted a subsequent marriage. (321a)

ARTICLE 404. An orphan who is minor may, at the instance of any relative or other person, obtain emancipation by concession upon an order of the Court of First Instance. (322a)

ARTICLE 405. For the concession and approval referred to in the preceding article it is necessary:

- (1) That the minor be eighteen years of age;
- (2) That he consent thereto; and
- (3) That the concession be deemed convenient for the minor.

The concession shall be recorded in the Civil Register. (323a)

ARTICLE 406. The provisions of article 399 are applicable to an orphan who has been emancipated according to article 404. The court will give the necessary approval with respect to the contracts mentioned in article 399. In litigations, a guardian ad litem for the minor shall be appointed by the court. (324a)

## TITLE XVI *Civil Register*

ARTICLE 407. Acts, events and judicial decrees concerning the civil status of persons shall be recorded in the civil register. (325a)

ARTICLE 408. The following shall be entered in the civil register:

- (1) Births;
- (2) marriages;
- (3) deaths;
- (4) legal separations;
- (5) annulments of marriage;
- (6) judgments declaring marriages void from the beginning;
- (7) legitimations;
- (8) adoptions;
- (9) acknowledgments of natural children;
- (10) naturalization;
- (11) loss, or
- (12) recovery of citizenship;
- (13) civil interdiction;
- (14) judicial determination of filiation;
- (15) voluntary emancipation of a minor; and
- (16) changes of name. (326a)

ARTICLE 409. In cases of legal separation, adoption, naturalization and other judicial orders mentioned in the preceding article, it shall be the duty of the clerk of the court which issued the decree to ascertain whether the same has been registered, and if this has not been done, to send a copy of said

decree to the civil registry of the city or municipality where the court is functioning. (n)

ARTICLE 410. The books making up the civil register and all documents relating thereto shall be considered public documents and shall be prima facie evidence of the facts therein contained. (n)

ARTICLE 411. Every civil registrar shall be civilly responsible for any unauthorized alteration made in any civil register, to any person suffering damage thereby. However, the civil registrar may exempt himself from such liability if he proves that he has taken every reasonable precaution to prevent the unlawful alteration. (n)

ARTICLE 412. No entry in a civil register shall be changed or corrected, without a judicial order. (n)

ARTICLE 413. All other matters pertaining to the registration of civil status shall be governed by special laws. (n)

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