

民法中英文對照

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Civil Code

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第一編 總則**第一章 法例****第 1 條**

民事，法律所未規定者，依習慣；無習慣者，依法理。

第 2 條

民事所適用之習慣，以不背於公共秩序或善良風俗者為限。

第 3 條

依法律之規定，有使用文字之必要者，得不由本人自寫，但必須親自簽名。

如有用印章代簽名者，其蓋章與簽名生同等之效力。

如以指印、十字或其他符號代簽名者，在文件上，經二人簽名證明，亦與簽名生同等之效力。

第 4 條

關於一定之數量，同時以文字及號碼表示者，文字與號碼有不合時，如法院不能決定何者為當事人之原意，應以文字為準。

第 5 條

關於一定之數量，以文字或號碼為數次之表示者，其表示有不合時，如法院不能決定何者為當事人之原意，應以最低額為準。

第二章 人**第一節 自然人****第 6 條**

人之權利能力，始於出生，終於死亡。

第 7 條

胎兒以將來非死產者為限，關於其個人利益之保護，視為既已出生。

Part I General Principles**Chapter I Application Rules****Article 1**

If there is no applicable act for a civil case, the case shall be decided according to customs. If there is no such custom, the case shall be decided according to the jurisprudence.

Article 2

Only those customs which are not against public policy or morals shall be applied to a civil case.

Article 3

While a written document is required by the act, it is unnecessary written by the person himself, but it must be signed by him.

If the person uses a seal in stead of his signature, the affixing of such seal has the same effect as of his signature.

The effect of a finger-print, cross or other mark will be equivalent to the effect of a signature provided that it is certified with two witnesses' signatures.

Article 4

If a certain quantity is expressed both in characters and in figures, and if there is inconsistency between them, the expression in characters shall be governed when the court cannot ascertain the real intent of the parties.

Article 5

If a certain quantity is expressed in characters or in figures more than once, and if there is inconsistency in them, the fewest shall be governed when the court cannot ascertain the real intent of the parties.

Chapter II Persons**Section I Natural Persons****Article 6**

The legal capacity of a person commences from the moment of live birth and terminates at death.

Article 7

An unborn child is considered as if it were already born with regard to its interests, except it was subsequently born dead.

第 8 條

失蹤人失蹤滿七年後，法院得因利害關係人或檢察官之聲請，為死亡之宣告。

失蹤人為八十歲以上者，得於失蹤滿三年後，為死亡之宣告。

失蹤人為遭遇特別災難者，得於特別災難終了滿一年後，為死亡之宣告。

第 9 條

受死亡宣告者，以判決內所確定死亡之時，推定其為死亡。

前項死亡之時，應為前條各項所定期間最後日終止之時。但有反證者，不在此限。

第 10 條

失蹤人失蹤後，未受死亡宣告前，其財產之管理，依非訟事件法之規定。

第 11 條

二人以上同時遇難，不能證明其死亡之先後時，推定其為同時死亡。

第 12 條

滿二十歲為成年。

第 13 條

未滿七歲之未成年人，無行為能力。

滿七歲以上之未成年人，有限制行為能力。

未成年人已結婚者，有行為能力。

第 14 條

對於因精神障礙或其他心智缺陷，致不能為意思表示或受意思表示，或不能辨識其意思表示之效果者，法院得因本人、配偶、四親等內之親屬、最近一年有同居事實之其他親屬、檢察官、主管機關或社會福利機構之聲請，為監護之宣告。

受監護之原因消滅時，法院應依前項聲請權人之聲請，撤銷其宣告。

Article 8

An absent person who has disappeared for more than seven years may be declared dead by the court upon the application of any interested person or the public prosecutor.

If the absent person was over eighty years of age and has disappeared for more than three years, he may be declared dead.

If the absent person was in a catastrophe, he may be declared dead when it has been over a year after the end of the catastrophe.

Article 9

A person who had been declared dead is presumed to be dead at the date fixed in the judgment.

In the absence of proof to the contrary, the time of death specified in the preceding paragraph shall be the date of expiration of the period specified in the preceding article.

Article 10

The property of an absent person, after his absence and up to the declaration of death, shall be administered according to The Act Governing Non-litigation Cases.

Article 11

When there have been two or more persons perished in a catastrophe and if the sequence of their death could not be proven, they are presumed to be dead simultaneously.

Article 12

Majority is attained upon reaching the twentieth year of age.

Article 13

The minor, who has not reached their seventh year of age, has no capacity to make juridical acts.

The minor, who is over seven years of age, has a limited capacity to make juridical acts.

The married minor has the capacity to make juridical acts.

Article 14

With respect to any person who is not able to make declaration of intention, receive declaration of intention, or who lacks the ability to discern the outcome of the declaration of intention due to mental disability, the court may order the commencement of guardianship at the request of the person in question, his/her spouse, any relative within the fourth degree of kinship, a prosecutor, a competent authority or an organization of social welfare.

When the cause of guardianship ceases to exist, the court must revoke the order of the commencement of guardianship at the

法院對於監護之聲請，認為未達第一項之程度者，得依第十五條之一第一項規定，為輔助之宣告。

受監護之原因消滅，而仍有輔助之必要者，法院得依第十五條之一第一項規定，變更為輔助之宣告。

第 15 條

受監護宣告之人，無行為能力。

第 15-1 條

對於因精神障礙或其他心智缺陷，致其為意思表示或受意思表示，或辨識其意思表示效果之能力，顯有不足者，法院得因本人、配偶、四親等內之親屬、最近一年有同居事實之其他親屬、檢察官、主管機關或社會福利機構之聲請，為輔助之宣告。

受輔助之原因消滅時，法院應依前項聲請權人之聲請，撤銷其宣告。

受輔助宣告之人有受監護之必要者，法院得依第十四條第一項規定，變更為監護之宣告。

第 15-2 條

受輔助宣告之人為下列行為時，應經輔助人同意。但純獲法律上利益，或依其年齡及身分、日常生活所必需者，不在此限：

- 一、 為獨資、合夥營業或為法人之負責人。
- 二、 為消費借貸、消費寄託、保證、贈與或信託。
- 三、 為訴訟行為。
- 四、 為和解、調解、調處或簽訂仲裁契約。
- 五、 為不動產、船舶、航空器、汽車或其他重要財產之處分、設定負擔、買賣、租賃或借貸。
- 六、 為遺產分割、遺贈、拋棄繼

request of the applicant set forth in previous paragraph.

The court may order the commencement of assistantship, based on paragraph 1 of Article 15-1, if application of commencement of guardianship does not meet the requirement enforced in paragraph 1 of this Article.

If the cause of guardianship ceases to exist, yet assistantship is necessary, the court, based on paragraph 1 of Article 15, may order the commencement of assistantship to replace the commencement of guardianship.

Article 15

A person who has become subject to the order of the commencement of guardianship has no capacity to perform any juristic act.

Article 15-1

With respect to any person who has insufficient capacity to make declaration of intention, receive declaration of intention, or who lacks the ability to discern the outcome of the declaration of intention due to mental disability, the court may order the commencement of assistance at the request of the person in question, his/her spouse, any relative within the fourth degree of kinship, a prosecutor, a competent authority or an organization of social welfare.

When the cause of assistance ceases to exist, the court must revoke the order of the commencement of guardianship at the request of the applicant set forth in previous paragraph.

If a person who is the subject to the order of commencement of assistance is in need of guardianship, the court, under paragraph 1 of Article 14, may change the order to the commencement of guardianship.

Article 15-2

A person under assistance must obtain the consent of his/her assistant if he/she intends to perform any of the following acts; provided, however, that, this shall not apply to any act relating to pure legal benefit or the necessity based on the person's age, status, and daily life

- (1) being a responsible person of a sole proprietorship, of a partnership company, or of a juristic person;
- (2) making loans for consumption, consumption deposit, a guaranty, a gift, or a trust;
- (3) taking any procedural action;
- (4) agreeing to compromise, conciliation, adjustment, or signing arbitration contract;
- (5) performing any act with the purpose of obtaining or relinquishing any right regarding real estate, vessels, aircrafts, vehicles, or other valuable property;
- (6) performing partition of the inheritance, legacy, waiving the

承權或其他相關權利。

七、 法院依前條聲請權人或輔助人之聲請，所指定之其他行為。

第七十八條至第八十三條規定，於未依前項規定得輔助人同意之情形，準用之。

第八十五條規定，於輔助人同意受輔助宣告之人為第一項第一款行為時，準用之。

第一項所列應經同意之行為，無損害受輔助宣告之人利益之虞，而輔助人仍不為同意時，受輔助宣告之人得逕行聲請法院許可後為之。

right to inheritance, or any other related right;

(7) performing any other act, at the request of the person or his/her assistant, appointed by the court under previous provision.

The provisions of Articles 78 to 83 shall apply mutatis mutandis to conditions not agreed by assistant according to the provisions of the preceding paragraph.

The provision of Article 85 shall apply mutatis mutandis to acts, agreed by the assistant and under section 1 of paragraph 1, performed by a person under assistance.

With respect to any act which requires the consent of the assistant under paragraph 1, if the assistant does not give consent in cases where the interest of the person under assistance is unlikely to be prejudiced, the court may, at the request of the person under assistance, give permission.

第 16 條

權利能力及行為能力，不得拋棄。

Article 16

No one shall be permitted to waive his legal capacity or capacity to make juridical acts.

第 17 條

自由不得拋棄。

自由之限制，以不背於公共秩序或善良風俗者為限。

Article 17

No one shall be permitted to waive his liberty.

Any limitation to liberty shall not be against public policy or morals.

第 18 條

人格權受侵害時，得請求法院除去其侵害；有受侵害之虞時，得請求防止之。

前項情形，以法律有特別規定者為限，得請求損害賠償或慰撫金。

Article 18

When one's personality is infringed, one may apply to the court for removing. When one's personality is in danger of being infringed, one may apply for prevention.

In the preceding paragraph, an action for damages for emotional distress may be brought only if it is otherwise provided by the act.

第 19 條

姓名權受侵害者，得請求法院除去其侵害，並得請求損害賠償。

Article 19

If one's right to use his name is infringed, one may apply to the court for removing of infringement and for damages for emotional distress.

第 20 條

依一定事實，足認以久住之意思，住於一定之地域者，即為設定其住所於該地。

一人同時不得有兩住所。

Article 20

A person who resides in a place with the intention of remaining there permanently, upon presence of supporting fact, is to establish his domicile at that place.

Every person has at all times one domicile, and no person has more than one domicile at a time.

第 21 條

無行為能力人及限制行為能力人，以其法定代理人之住所為住所。

Article 21

The domicile of a person who has no or is limited in capacity to make juridical acts is the domicile of his guardian.

第 22 條

遇有下列情形之一，其居所視為住所：

- 一、住所無可考者。
- 二、在我國無住所者。但依法須依住所地法者，不在此限。

第 23 條

因特定行為選定居所者，關於其行為，視為住所。

第 24 條

依一定事實，足認以廢止之意思離去其住所者，即為廢止其住所。

第二節 法人

第一款 通則

第 25 條

法人非依本法或其他法律之規定，不得成立。

第 26 條

法人於法令限制內，有享受權利、負擔義務之能力。但專屬於自然人之權利義務，不在此限。

第 27 條

法人應設董事。董事有數人者，法人事務之執行，除章程另有規定外，取決於全體董事過半數之同意。

董事就法人一切事務，對外代表法人。董事有數人者，除章程另有規定外，各董事均得代表法人。

對於董事代表權所加之限制，不得對抗善意第三人。

法人得設監察人，監察法人事務之執行。監察人有數人者，除章程另有規定外，各監察人均得單獨行使監察權。

Article 22

A person's residence is deemed to be his/her domicile in either of the following circumstances

- (1) when his/her domicile cannot be certified.
- (2) when he/she has no domicile in Taiwan except when lex domicilli governs.

Article 23

Where a person has chosen a residence for a specific purpose, the residence is deemed to be his domicile with regard to that purpose.

Article 24

A person, who has left his domicile with the intention of repealing it, upon presence of supporting fact, is to repeal the domicile.

Section II Juridical Persons

Sub-section I General Provisions

Article 25

A juridical person is established only according to this code or any other acts.

Article 26

Within the limits prescribed by acts and regulations, a juridical person is capable of enjoy rights and assume duties with the exception of those rights and obligations which are exclusively appertaining to natural persons.

Article 27

A juridical person must have at least one director. If there is more than one director, the execution of affairs of the juridical person shall be decided by a majority of all directors unless otherwise provided by its bylaw.

The director represents the juridical person within the management of its affairs. If there is more than one director, each director may represent the juridical person unless otherwise provided by its bylaw.

No restriction imposed upon the representative right of a director may be a valid defense against any bona fide third party.

A juridical person may have one or more controllers to control the execution of its affairs. If there is more than one controller, each controller may exercise his right of control respectively unless otherwise provided by its bylaw.

第 28 條

法人對於其董事或其他有代表權之人因執行職務所加於他人之損害，與該行為人連帶負賠償之責任。

第 29 條

法人以其主事務所之所在地為住所。

第 30 條

法人非經向主管機關登記，不得成立。

第 31 條

法人登記後，有應登記之事項而不登記，或已登記之事項有變更而不為變更之登記者，不得以其事項對抗第三人。

第 32 條

受設立許可之法人，其業務屬於主管機關監督，主管機關得檢查其財產狀況及其有無違反許可條件與其他法律之規定。

第 33 條

受設立許可法人之董事或監察人，不遵主管機關監督之命令，或妨礙其檢查者，得處以五千元以下之罰鍰。

前項董事或監察人違反法令或章程，足以危害公益或法人之利益者，主管機關得請求法院解除其職務，並為其他必要之處置。

第 34 條

法人違反設立許可之條件者，主管機關得撤銷其許可。

第 35 條

法人之財產不能清償債務時，董事應即向法院聲請破產。

不為前項聲請，致法人之債權人受

Article 28

A juridical person is jointly liable with the wrongdoer for the injury caused by its directors or other persons who are entitled to represent the juridical person in the performance of their duties.

Article 29

The domicile of a juridical person is the location of its principal office.

Article 30

A juridical person can not be established unless it has been registered with the authorities concerned.

Article 31

If a juridical person, after its registration, fails to register any entry which should have been registered, or to register any amendment to any of the entries already registered, such entry or amendment therein should not be a valid defense against any third party.

Article 32

The activities of a licensed juridical person are subject to the supervision of the authorities concerned. The authorities concerned may examine the juridical person's financial situation and ascertain whether it has violated the conditions of the license and other legal requirements.

Article 33

The director or controller of a licensed juridical person who disobeys the supervising order of, or obstructs the inspection by the authorities concerned, may be punished with a fine not exceeding five thousand Yuan.

If the director or controller set forth in the preceding paragraph violates the act, regulation, or bylaw to such an extent that may endanger interests of the public or the juridical person, the authorities concerned may apply to the court for dismissing his position and make other necessary arrangement.

Article 34

If a juridical person violates any conditions under which the license has been granted, the authorities concerned may revoke the license to the juridical person.

Article 35

When a juridical person is in a state of insolvent, the director shall immediately apply to the court for the declaration of bankruptcy.

If the director fails to make the preceding application, so that

損害時，有過失之董事，應負賠償責任，其有二人以上時，應連帶負責。

the creditors of the juridical person incur the injury, he who is negligent shall be liable for the injury. If more than one director is negligent, they shall be liable for the injury jointly.

第 36 條

法人之目的或其行為，有違反法律、公共秩序或善良風俗者，法院得因主管機關、檢察官或利害關係人之請求，宣告解散。

Article 36

When the purpose or the activity of a juridical person violates the act, public policy or morals, the court may declare to dissolve the juridical person upon the application of the authorities concerned, the public prosecutor, or any interested person.

第 37 條

法人解散後，其財產之清算，由董事為之。但其章程有特別規定，或總會另有決議者，不在此限。

Article 37

The liquidation of a dissolved juridical person shall be dealt with by its director, unless otherwise provided its bylaw or by the resolution of the general meeting of members.

第 38 條

不能依前條規定，定其清算人時，法院得因主管機關、檢察官或利害關係人之聲請，或依職權，選任清算人。

Article 38

If the appointment of the liquidator cannot be made under the preceding article, the court may appoint the liquidator by its authority or upon the application of the authorities concerned, public prosecutor, or interested person.

第 39 條

清算人，法院認為有必要時，得解除其任務。

Article 39

Whenever necessary, the court may discharge the liquidator from his duties.

第 40 條

清算人之職務如左：
一、了結現務。
二、收取債權，清償債務。
三、移交賸餘財產於應得者。
法人至清算終結止，在清算之必要範圍內，視為存續。

Article 40

A liquidator shall do the following duties:
(1) Wind up the business or affairs of the juridical person.
(2) Claim the obligatory rights and discharge the debts.
(3) Deliver the remaining assets to the persons entitled thereto.
The dissolved juridical person, before the end of its liquidation, is deemed to continue existence insofar as it is necessary for the liquidation.

第 41 條

清算之程序，除本通則有規定外，準用股份有限公司清算之規定。

Article 41

Unless otherwise provided by this General Provisions, the procedure of liquidation shall be carried out in conformity mutatis mutandis with the provisions governing the liquidation of a company limited by shares.

第 42 條

法人之清算，屬於法院監督。法院得隨時為監督上必要之檢查及處分。
法人經主管機關撤銷許可或命令解散者，主管機關應同時通知法院。
法人經依章程規定或總會決議解

Article 42

The liquidation of a juridical person shall be subject to the supervision of the court. The court may at any time make inspection and disposition necessary for its supervision.
Whenever to revoke the license to or order the dissolution of a juridical person, the authorities concern shall notify the court simultaneously.
If a juridical person was dissolved in accordance with its bylaw

散者，董事應於十五日內報告法院。

or the resolution of its general meeting of members, the director shall report to the court within fifteen days after the dissolution.

第 43 條

清算人不遵法院監督命令，或妨礙檢查者，得處以五千元以下之罰鍰。董事違反前條第三項之規定者亦同。

Article 43

A liquidator who violates the supervising order of the court or obstructs the inspection of the court may be punished with a fine not exceeding five thousand Yuan. A director who violates the provision in the third paragraph of the preceding article may be punished with the same fine.

第 44 條

法人解散後，除法律另有規定外，於清償債務後，其賸餘財產之歸屬，應依其章程之規定，或總會之決議。但以公益為目的之法人解散時，其賸餘財產不得歸屬於自然人或以營利為目的之團體。

Article 44

After a juridical person has been dissolved and its debts have been discharged, unless otherwise provided by the act, the remaining assets shall be assigned according to its bylaw, or the resolution of the general meeting of members. Upon the dissolution of a charitable juridical person, its remaining assets shall not be assigned to any natural person or profit-seeking group.

如無前項法律或章程之規定或總會之決議時，其賸餘財產歸屬於法人住所所在地之地方自治團體。

Without such provisions in the act, in the bylaw, or of a resolution of the general meeting of members as provided in the preceding paragraph, the remaining assets of a juridical person shall be assigned to the municipal corporation in which the juridical person is domiciled.

第二款 社團

Sub-section II Corporations

第 45 條

以營利為目的之社團，其取得法人資格，依特別法之規定。

Article 45

A business corporation acquires juridical personality according to the particular act.

第 46 條

以公益為目的之社團，於登記前，應得主管機關之許可。

Article 46

Before the registration, a charitable corporation shall obtain the license of its authorities concerned.

第 47 條

設立社團者，應訂定章程，其應記載之事項如左：

Article 47

Those who want to establish a corporation shall draw up its bylaw which shall contain the following entries:

- 一、目的。
- 二、名稱。
- 三、董事之人數、任期及任免。設有監察人者，其人數、任期及任免。
- 四、總會召集之條件、程序及其決議證明之方法。
- 五、社員之出資。
- 六、社員資格之取得與喪失。
- 七、訂定章程之年、月、日。

- (1) Purpose;
- (2) Name;
- (3) The number, term of office, appointment and dismissal of the director; and same of the controller, if any;
- (4) The conditions and procedures for calling the general meeting of members and the method for authentication of its resolution;
- (5) The contributions of the members;
- (6) The acquisition and loss of membership;
- (7) The date of the bylaw be drawn up;

第 48 條

社團設立時，應登記之事項如左：

- 一、目的。
 - 二、名稱。
 - 三、主事務所及分事務所。
 - 四、董事之姓名及住所。設有監察人者，其姓名及住所。
 - 五、財產之總額。
 - 六、應受設立許可者，其許可之年、月、日。
 - 七、定有出資方法者，其方法。
 - 八、定有代表法人之董事者，其姓名。
 - 九、定有存立時期者，其時期。
- 社團之登記，由董事向其主事務所及分事務所所在地之主管機關行之，並應附具章程備案。

第 49 條

社團之組織及社團與社員之關係，以不違反第五十條至第五十八條之規定為限，得以章程定之。

第 50 條

社團以總會為最高機關。

左列事項應經總會之決議：

- 一、變更章程。
- 二、任免董事及監察人。
- 三、監督董事及監察人職務之執行。
- 四、開除社員。但以有正當理由時為限。

第 51 條

總會由董事召集之，每年至少召集一次。董事不為召集時，監察人得召集之。

如有全體社員十分一以上之請求，表明會議目的及召集理由，請求召集時，董事應召集之。

董事受前項之請求後，一個月內不為召集者，得由請求之社員，經法院之許可召集之。

總會之召集，除章程另有規定外，

Article 48

When a corporation is established, the following entries shall be registered:

- (1) Purpose;
- (2) Name;
- (3) The principal and branch offices;
- (4) The name and domicile of the director; and same of the controller, if any;
- (5) The total assets;
- (6) The date of the license, if the corporation should be licensed;
- (7) The way of contributions, if any;
- (8) The name of the director who represents the juridical person, if any;
- (9) The period of duration, if any;

The application for the registration of a corporation shall be submitted by the director to the authorities concerned where its principal and branch offices are located. A copy of its bylaw shall be annexed to the application for registration.

Article 49

Without violating the provisions of articles 50 to 58, the bylaw may provide for the organization of the corporation and the relations between the corporation and its members.

Article 50

The supreme organ of a corporation is the general meeting of its members.

The following entries shall be passed by the resolution of the general meeting of members:

- (1) The alteration of the bylaw;
- (2) The appointment and dismissal of the director and the controller;
- (3) The supervision of the director and the controller in doing of their duties;
- (4) The removal of members for good causes.

Article 51

The general meeting of members shall be called at least once a year by the director; if the director does not call the general meeting, the controller may call it.

When over one-tenth of the members of a corporation request the director to call a general meeting, expressing the purpose of the meeting and the reason for its calling, the director shall call the meeting accordingly.

After the receipt of above request, if the director does not call the meeting within one month, the member, who have made the request, with the authorization of the court, may call the meeting.

The notice of calling, unless otherwise provided by the bylaw,

應於三十日前對各社員發出通知。通知內應載明會議目的事項。

shall be given to the members 30days in advance. The agenda of the general meeting shall be specified in the notice.

第 52 條

總會決議，除本法有特別規定外，以出席社員過半數決之。
社員有平等之表決權。
社員表決權之行使，除章程另有限制外，得以書面授權他人代理為之。但一人僅得代理社員一人。
社員對於總會決議事項，因自身利害關係而有損害社團利益之虞時，該社員不得加入表決，亦不得代理他人行使表決權。

Article 52

Unless otherwise provided by this Code, the resolution of the general meeting of members shall be passed if it passed by a majority of its members present.
The voting right of each member is equal.
Unless otherwise limited by the bylaw, a member may delegate another with a written document to exercise his voting right, but each person may act as proxy for one member only.
Any member who has conflict of interests in the matter under resolution of the general meeting of members which may damage the corporation shall not vote or exercise as a proxy to vote.

第 53 條

社團變更章程之決議，應有全體社員過半數之出席，出席社員四分之三以上之同意，或有全體社員三分之二以上書面之同意。

Article 53

The resolution concerning the alteration of the bylaw of a corporation shall be passed at a meeting at which the majority of the members of the corporation are present, and by a majority of over three-fourths of the members present, or when over two-thirds of the members of the corporation declare their consent in writing.

受設立許可之社團，變更章程時，並應得主管機關之許可。

The alteration of the bylaw of a licensed corporation shall be approved by the authorities concerned.

第 54 條

社員得隨時退社。但章程限定於事務年度終，或經過預告期間後，始准退社者，不在此限。

Article 54

The members may withdraw from the corporation at any time unless the bylaw requires that the members have to remain until the end of the business year, or the expiration of notice period of withdrawal.

前項預告期間，不得超過六個月。

The period of notice in the preceding paragraph shall not exceed six months.

第 55 條

已退社或開除之社員，對於社團之財產無請求權。但非公益法人，其章程另有規定者，不在此限。
前項社員，對於其退社或開除以前應分擔之出資，仍負清償之義務。

Article 55

The member who is withdrew or dismissed has no claim for the property of the corporation unless otherwise provided by the bylaw of a non-charitable corporation.
The member in the preceding paragraph continues to be liable for his share of the contributions which has become due before his withdrawal or dismissal.

第 56 條

總會之召集程序或決議方法，違反法令或章程時，社員得於決議後三個月內請求法院撤銷其決議。但出席社員，對召集程序或決議方法，未當場表示異議者，不在此限。

Article 56

If the calling procedure or the method of a resolution of a general meeting of members violates the act, regulations, or the bylaw of the corporation, any member may apply to the court to revoke the resolution within three months after the resolution, except the member who was present and did not make objection against the calling procedure or the method of the resolution at

總會決議之內容違反法令或章程者，無效。

第 57 條

社團得隨時以全體社員三分二以上之可決解散之。

第 58 條

社團之事務，無從依章程所定進行時，法院得因主管機關、檢察官或利害關係人之聲請解散之。

第三款 財團

第 59 條

財團於登記前，應得主管機關之許可。

第 60 條

設立財團者，應訂立捐助章程。但以遺囑捐助者，不在此限。捐助章程，應訂明法人目的及所捐財產。以遺囑捐助設立財團法人者，如無遺囑執行人時，法院得依主管機關、檢察官或利害關係人之聲請，指定遺囑執行人。

第 61 條

財團設立時，應登記之事項如左：

- 一、目的。
- 二、名稱。
- 三、主事務所及分事務所。
- 四、財產之總額。
- 五、受許可之年、月、日。
- 六、董事之姓名及住所。設有監察人者，其姓名及住所。
- 七、定有代表法人之董事者，其姓名。
- 八、定有存立時期者，其時期。

財團之登記，由董事向其主事務所及分事務所所在地之主管機關行之。並應附具捐助章程或遺囑備

the meeting.

The content of the resolution passed by the general meeting of members which violates the act, regulations, or the bylaw of the corporation shall be void.

Article 57

A corporation may be dissolved, at any time, by a resolution of the general meeting of members passed by a majority vote of over two-thirds of the members of the corporation.

Article 58

When the affairs of a corporation can not be proceeded any more according to its bylaw, the corporation may be dissolved by the court upon the application of the authorities concerned, public prosecutor, or any interested person.

Sub-section III Foundation

Article 59

Before registration, a foundation shall be licensed by the authorities concerned.

Article 60

Those who want to establish a foundation shall draw up an act of endowment, except in the case of endowment by will. The act of endowment shall provide the purpose of the foundation and the assets endowed. When a foundation is established with endowment by will, and there is no executor, the court may appoint an executor upon the application of the authorities concerned, public prosecutor, or any interested person.

Article 61

When a foundation is established, the following entries shall be registered:

- (1) Purpose;
- (2) Name;
- (3) The principal and branch offices;
- (4) The total assets;
- (5) The date of the license;
- (6) The name and domicile of the director, and same of the controller, if any;
- (7) The name of the director who represents the juridical person, if any;
- (8) The period of duration, if any.

The application for the registration of a foundation shall be submitted by the director to the authorities concerned of the place where its principal and branch offices are located. A copy

案。

of its act of endowment or the will shall be annexed to the application for registration.

第 62 條

財團之組織及其管理方法，由捐助人以捐助章程或遺囑定之。捐助章程或遺囑所定之組織不完全，或重要之管理方法不具備者，法院得因主管機關、檢察官或利害關係人之聲請，為必要之處分。

Article 62

The organization and method of administration of a foundation shall be stipulated by the founder in the act of endowment or will. If the organization or the important method of administration, as provided in the act of endowment or will, is insufficient, the court may take necessary disposition upon the application of the authorities concerned, public prosecutor or any interested person.

第 63 條

為維持財團之目的或保存其財產，法院得因捐助人、董事、主管機關、檢察官或利害關係人之聲請，變更其組織。

Article 63

In order to maintain the purpose of a foundation or preserve its assets, the court may alter the foundation's organization upon the application of the founder, the director, authorities concerned, public prosecutor, or any interested person.

第 64 條

財團董事，有違反捐助章程之行為時，法院得因主管機關、檢察官或利害關係人之聲請，宣告其行為為無效。

Article 64

The act of the director of a foundation, which violates the act of endowment, may be declared void by the court, upon the application of the authorities concerned, public prosecutor or any interested person.

第 65 條

因情事變更，致財團之目的不能達到時，主管機關得斟酌捐助人之意思，變更其目的及其必要之組織，或解散之。

Article 65

If the purpose of a foundation can not be completed because of change of circumstances, the authorities concerned may, after considering the intent of the founder, change the purpose and the necessary organization of the foundation, or dissolve it.

第三章 物

Chapter III Things

第 66 條

稱不動產者，謂土地及其定著物。

不動產之出產物，尚未分離者，為該不動產之部分。

Article 66

Real property is land and things which are constantly affixed thereto.

The products of the real property, if they are not separated therefrom, constitute a part of the real property.

第 67 條

稱動產者，為前條所稱不動產以外之物。

Article 67

Personal property is any thing except real property mentioned in the preceding article.

第 68 條

非主物之成分，常助主物之效用，而同屬於一人者，為從物。但交易上有特別習慣者，依其習慣。

主物之處分，及於從物。

Article 68

Accessories are things which are not part of the principal thing, but usually facilitate its utilization and belong to the same owner. However, if there is a particular custom in trade, such custom shall be prevalent.

The disposition of a principal thing extends to its accessories.

第 69 條

稱天然孳息者，謂果實、動物之產物及其他依物之用法所收穫之出產物。

稱法定孳息者，謂利息、租金及其他因法律關係所得之收益。

Article 69

Natural profits are products of the earth, animals, and other products which are produced from another thing without diminution of its substance.

Civil profits are interest, rentals and other revenue derived from the legal relation.

第 70 條

有收取天然孳息權利之人，其權利存續期間內，取得與原物分離之孳息。

有收取法定孳息權利之人，按其權利存續期間內之日數，取得其孳息。

Article 70

A person who is entitled to the natural profits of a thing acquires the profits which are separated from the thing for the duration of his right.

A person who is entitled to the civil profits of a thing acquires them in proportion to the number of days for the duration of his right.

第四章 法律行為

Chapter IV Juridical Acts

第一節 通則

Section I General Provisions

第 71 條

法律行為，違反強制或禁止之規定者，無效。但其規定並不以之為無效者，不在此限。

Article 71

A juridical act which violates an imperative or prohibitive provision of the act is void except voidance is not implied in the provision.

第 72 條

法律行為，有背於公共秩序或善良風俗者，無效。

Article 72

A juridical act which is against public policy or morals is void.

第 73 條

法律行為，不依法定方式者，無效。但法律另有規定者，不在此限。

Article 73

A juridical act which does not follow the formality required by the act is void unless otherwise provided by the act.

第 74 條

法律行為，係乘他人之急迫、輕率或無經驗，使其為財產上之給付或為給付之約定，依當時情形顯失公平者，法院得因利害關係人之聲請，撤銷其法律行為或減輕其給付。

前項聲請，應於法律行為後一年內為之。

Article 74

If a juridical act whereby a person profiting by the difficulties, recklessness or inexperience of another causes to be delivered or promised pecuniary payment to such an extent that under that circumstances, the transaction is obviously unfair, the court may revoke the juridical act or reduce the payment upon the application of any interested person.

The application mentioned in the preceding paragraph must be made within one year from the date of the juridical act.

第二節 行為能力

Section II Capacity to Make Juridical Acts

第 75 條

Article 75

無行為能力人之意思表示，無效；雖非無行為能力人，而其意思表示，係在無意識或精神錯亂中所為者亦同。

The expression of intent of a person who has no capacity to make juridical acts is void. An expression is also void which is made by a person who, though not without capacity to make juridical acts, in a condition of unconsciousness or mental disorder.

第 76 條

無行為能力人由法定代理人代為意思表示，並代受意思表示。

Article 76

A person who has no capacity to make juridical acts shall be represented by his guardian for making or receiving an expression of intent.

第 77 條

限制行為能力人為意思表示及受意思表示，應得法定代理人之允許。但純獲法律上之利益，或依其年齡及身份、日常生活所必需者，不在此限。

Article 77

The making or receiving of an expression of intent of a person who is limited in capacity to make juridical acts must be approved by his guardian, except when the expression of intent relates to the pure acquisition of a legal advantage, or to the necessities of life according to his age and status.

第 78 條

限制行為能力人未得法定代理人之允許，所為之單獨行為，無效。

Article 78

A unilateral act made by a person limited in capacity to make juridical acts without the approval of his guardian is void.

第 79 條

限制行為能力人未得法定代理人之允許，所訂立之契約，須經法定代理人之承認，始生效力。

Article 79

A contract made by a person limited in capacity to make juridical acts without the approval of his guardian is valid upon the acknowledgement of the guardian.

第 80 條

前條契約相對人，得定一個月以上期限，催告法定代理人，確答是否承認。

Article 80

The other party to the contract mentioned in the preceding article may fix a period, not less than one month, and request the guardian to answer definitely within such period whether he acknowledged the contract or not.

於前項期限內，法定代理人不為確答者，視為拒絕承認。

If the guardian does not give a definite answers within the period mentioned in the preceding paragraph, it shall be deemed as refusal.

第 81 條

限制行為能力人於限制原因消滅後，承認其所訂立之契約者，其承認與法定代理人之承認，有同一效力。

Article 81

After the cause for which a person's capacity to make juridical acts is limited has ended in existence, his acknowledgement of the contract which he has previously made has the same effect as that of his guardian.

前條規定，於前項情形準用之。

The provision of the preceding article applies mutatis mutandis to the case provided in the preceding paragraph.

第 82 條

限制行為能力人所訂立之契約，未經承認前，相對人得撤回之。但訂立契約時，知其未得有允許者，不在此限。

Article 82

Before the acknowledgement of the contract made by a person who is limited in capacity to make juridical acts, the other party to the contract may withdraw it, except he knew that the approval of the guardian had not been given, when the contract

was made.

第 83 條

限制行為能力人用詐術使人信其為有行為能力人或已得法定代理人之允許者，其法律行為為有效。

Article 83

A juridical act made by a person who is limited in capacity to make juridical acts is valid if such person has induced the other party, by using fraudulent means, to believe that he had capacity to make juridical acts or that he had obtained the approval of his guardian.

第 84 條

法定代理人允許限制行為能力人處分之財產，限制行為能力人，就該財產有處分之力。

Article 84

A person who is limited in capacity to make juridical acts is able to dispose of the property which his guardian has approved him to dispose of it.

第 85 條

法定代理人允許限制行為能力人獨立營業者，限制行為能力人，關於其營業，有行為能力。

Article 85

If the guardian of a person who is limited in capacity to make juridical acts has approved the latter to run business independently, such person has capacity to make juridical acts concerning the said business.

限制行為能力人，就其營業有不勝任之情形時，法定代理人得將其允許撤銷或限制之。但不得對抗善意第三人。

If the person limited in capacity to make juridical acts is unable to run the business thus approved, his guardian may revoke or restrict his approved, but it shall not be a valid defense against any bona fide third party.

第三節 意思表示

Section 3 Expression of Intent

第 86 條

表意人無欲為其意思表示所拘束之意，而為意思表示者，其意思表示，不因之無效。但其情形為相對人所明知者，不在此限。

Article 86

An expression of intent shall not be void for the expresser did not intend to be bound by it, except the fact was known to the other party.

第 87 條

表意人與相對人通謀而為虛偽意思表示者，其意思表示無效。但不得以其無效對抗善意第三人。虛偽意思表示，隱藏他項法律行為者，適用關於該項法律行為之規定。

Article 87

A fictitious expression of intent made by the expresser in collusion with other party is void, but the voidance can not be a valid defense against any bona fide third party. If the fictitious expression of intent was intended to conceal another juridical act, the provisions of the act with respect to such another juridical act shall apply.

第 88 條

意思表示之內容有錯誤，或表意人若知其事情即不為意思表示者，表意人得將其意思表示撤銷之。但以其錯誤或不知事情，非由表意人自己之過失者為限。當事人之資格或物之性質，若交易上認為重要者，其錯誤，視為意思

Article 88

If the expression was acting under a mistake as to the contents of his expression of intent, or had known the situation of affairs, he would not make the expression; he may revoke the expression; provided that the mistake or the ignorance of the affairs was not due to his own fault. If a mistake in respect to the qualification of the other party or the nature of a thing is regarded as essential in trade, it shall be

表示內容之錯誤。

deemed a mistake as to the contents of the expression of intent.

第 89 條

意思表示，因傳達人或傳達機關傳達不實者，得比照前條之規定撤銷之。

Article 89

If an expression of intent has been incorrectly transmitted by the person or institution employed for its transmission, it may be revoked under the same conditions as provided in the preceding article.

第 90 條

前二條之撤銷權，自意思表示後，經過一年而消滅。

Article 90

The right of revocation provided in the preceding two articles would be extinguished after one year from the date of expression.

第 91 條

依第八十八條及第八十九條之規定撤銷意思表示時，表意人對於信其意思表示為有效而受損害之相對人或第三人，應負賠償責任。但其撤銷之原因，受害人明知或可得而知者，不在此限。

Article 91

If a expression of intent is revoked according to Article 88 or Article 89, the expresser is bound to compensate for any injury which the other party or any third party may have sustained by relying upon the validity of the expression, except the injured party knew, or might know, of the ground on which the expression was revocable.

第 92 條

因被詐欺或被脅迫而為意思表示者，表意人得撤銷其意思表示。但詐欺係由第三人所為者，以相對人明知其事實或可得而知者為限，始得撤銷之。
被詐欺而為之意思表示，其撤銷不得以之對抗善意第三人。

Article 92

An expression of intent which is procured by fraud or by duress may be revoked by the expresser. If the fraud was done by a third party, the expression may be revoked only under the circumstances that the other party knew, or might know the affairs.
The revocation of an expression of intent on the ground of fraud can not be a valid defense against the bona fide third party.

第 93 條

前條之撤銷，應於發見詐欺或脅迫終止後，一年內為之。但自意思表示後，經過十年，不得撤銷。

Article 93

The right of revocation in the preceding article must be exercised within one year from the date when the fraud was discovered or when the duress ceased. But it can not be exercised after ten years since the expression of intent.

第 94 條

對話人為意思表示者，其意思表示，以相對人了解時，發生效力。

Article 94

An expression of intent inter presents becomes effective at the moment when the person to whom it is made understands it well.

第 95 條

非對話而為意思表示者，其意思表示，以通知達到相對人時，發生效力。但撤回之通知，同時或先時到達者，不在此限。
表意人於發出通知後死亡或喪失行為能力或其行為能力受限制者，其意思表示，不因之失其效

Article 95

An expression of intent inter absents becomes effective at the moment when the notification of the expression reaches such other party, except when the withdrawal of the notification previously or simultaneously reaches such other party.
The fact that after the notification of the expression the expresser dies, or becomes no capacity to make juridical acts, or is limited in capacity to make juridical acts, shall not null the

力。

expression of intent.

第 96 條

向無行為能力人或限制行為能力人為意思表示者，以其通知達到其法定代理人時，發生效力。

Article 96

If an expression of intent is made to a person with no capacity or limited in capacity to make juridical acts, it becomes effective when the notification of the expression reaches the guardian of the person.

第 97 條

表意人非因自己之過失，不知相對人之姓名、居所者，得依民事訴訟法公示送達之規定，以公示送達為意思表示之通知。

Article 97

If an expresser, not due to his fault, is ignorant of name and residence of the other party, the notification of the expression may be effected by the service by publication according to the Civil Procedure Code.

第 98 條

解釋意思表示，應探求當事人之真意，不得拘泥於所用之辭句。

Article 98

In the interpretation of an expression of intent, the real intention of the parties must be sought rather than the literal meaning of the words.

第四節 條件及期限

Section 4 - Conditions and Time of Commencement and Ending

第 99 條

附停止條件之法律行為，於條件成就時，發生效力。

附解除條件之法律行為，於條件成就時，失其效力。

依當事人之特約，使條件成就之效果，不於條件成就之時發生者，依其特約。

Article 99

If a juridical act is subject to a suspensive condition, it becomes effective on the fulfillment of the condition.

If a juridical act is subject to a resolutive condition, it ceases to be effective on the fulfillment of the condition.

If the effect of the fulfillment of the condition shall commence at another time than the time of fulfillment of the condition according to particular agreement of the parties, such particular agreement shall govern.

第 100 條

附條件之法律行為當事人，於條件成否未定前，若有損害相對人因條件成就所應得利益之行為者，負賠償損害之責任。

Article 100

If the party of a conditional juridical act has, during the pending of the fulfillment, made any act damaging the interests which the other party would have derived from the fulfillment of the condition, he is liable for any injury resulting therefrom.

第 101 條

因條件成就而受不利益之當事人，如以不正當行為阻其條件之成就者，視為條件已成就。

因條件成就而受利益之當事人，如以不正當行為促其條件之成就者，視為條件不成就。

Article 101

If the fulfillment of a condition is prevented by improper means of the party to whose disadvantages it would operate, the condition is deemed to have been fulfilled.

If the fulfillment of the condition is brought about by improper means of the party to whose advantages it would operate, the condition is deemed not to have been fulfilled.

第 102 條

附始期之法律行為，於期限屆至

Article 102

If a juridical act is subject to a time for its commencement, it

時，發生效力。
附終期之法律行為，於期限屆滿時，失其效力。
第一百條之規定，於前二項情形準用之。

becomes effective when the time arrives.
If a juridical is subject to a time for its ending, it ceases to be effective when the time arrives.
The provision of Article 100 shall apply mutatis mutandis to the case under the preceding two paragraphs.

第五節 代理

Section 5 –Agency

第 103 條

代理人於代理權限內，以本人名義所為之意思表示，直接對本人發生效力。
前項規定，於應向本人為意思表示，而向其代理人為之者，準用之。

Article 103

An expression of intent which an agent makes in the name of the principal within the scope of his delegated power takes effect directly to the principal.
If an expression of intent which is required to be made to the principal is made to his agent, the provision of the preceding paragraph shall be mutatis mutandis applied.

第 104 條

代理人所為或所受意思表示之效力，不因其為限制行為能力人而受影響。

Article 104

The effectiveness of an expression of intent made by or to an agent is not impaired by the fact that he is limited in the capacity to make juridical acts.

第 105 條

代理人之意思表示，因其意思欠缺、被詐欺、被脅迫，或明知其事情或可得而知其事情，致其效力受影響時，其事實之有無，應就代理人決之。
但代理人之代理權係以法律行為授與者，其意思表示，如依照本人所指示之意思而為時，其事實之有無，應就本人決之。

Article 105

If the effectiveness of an expression of intent of an agent is impaired by the lack of intent, by fraud, or by duress, or by knowledge, or by culpable ignorance of certain circumstances, the existence of the fact shall be determined with regard to the agent.
But if the agent derives his authority from a juridical act and the expression of intent was made following the definite instructions of the principal, the existence of the fact shall be determined with regard to the principal.

第 106 條

代理人非經本人之許諾，不得為本人與自己之法律行為，亦不得既為第三人之代理人，而為本人與第三人之法律行為。但其法律行為，係專履行債務者，不在此限。

Article 106

Without the consent of the principal, an agent shall not make a juridical act in the name of his principal with himself in his own name, nor shall he, as an agent of a third party, make a juridical act in the name of the principal with such third party, except when the juridical act consists exclusively in the performance of an obligation.

第 107 條

代理權之限制及撤回，不得以之對抗善意第三人。但第三人因過失而不知其實者，不在此限。

Article 107

The limitation or withdrawal of the delegated power shall not be a valid defense against any bona fide third party, except the ignorance of the third party is due to his fault.

第 108 條

代理權之消滅，依其所由授與之法律關係定之。

Article 108

The delegated power is terminated in accordance with the legal relation from which it is delegated.

代理權，得於其所由授與之法律關係存續中撤回之。但依該法律關係之性質不得撤回者，不在此限。

The delegated power may be withdrawn for the duration of the legal relation from which it is delegated, except when according to the nature of the legal relation it can not be withdrawn.

第 109 條

代理權消滅或撤回時，代理人須將授權書交還於授權者，不得留置。

Article 109

At the termination or withdrawal of the delegated power, the agent shall return the written delegation of agency to the party who gave it; he has no right to retain it.

第 110 條

無代理權人，以他人之代理人名義所為之法律行為，對於善意之相對人，負損害賠償之責。

Article 110

If one who has no delegated power to make a juridical act as an agent of another person, he is liable for the injury to the bona fide other party.

第六節 無效及撤銷

Section 6 - Voidance and Revocation

第 111 條

法律行為之一部分無效者，全部皆為無效。但除去該部分亦可成立者，則其他部分，仍為有效。

Article 111

If a part of a juridical act is void, the whole juridical act is void; however, if the juridical act could exist excluding the void part, the other part remains valid.

第 112 條

無效之法律行為，若具備他法律行為之要件，並因其情形，可認當事人若知其無效，即欲為他法律行為者，其他法律行為，仍為有效。

Article 112

If a void juridical act satisfies the requirement of another juridical act, the latter is valid if under the circumstances it may be assumed at its validity would have been intended by the parties on knowing of the voidance of the former.

第 113 條

無效法律行為之當事人，於行為當時知其無效，或可得而知者，應負回復原狀或損害賠償之責任。

Article 113

When a party made a void juridical act knew or might know that it was void, he shall be liable to recover the status of things to its original condition, or to compensate for any injury arising therefrom.

第 114 條

法律行為經撤銷者，視為自始無效。
當事人知其得撤銷或可得而知者，其法律行為撤銷時，準用前條之規定。

Article 114

If a juridical act has been revoked, it is deemed to have been void ab initio.
If a juridical act which is revocable was known or might have been known to the parties concerned, the provision of the preceding article shall apply mutatis mutandis to the revocation of the juridical act.

第 115 條

經承認之法律行為，如無特別訂定，溯及為法律行為時發生效力。

Article 115

Unless it is otherwise agreed upon, the acknowledgement of a voidable juridical act makes the juridical act valid from the moment when it was made.

第 116 條

撤銷及承認，應以意思表示為之。

Article 116

The revocation or acknowledgement of a juridical act shall be

如相對人確定者，前項意思表示，應向相對人為之。

made by an expression of intent.

If the other party is known, the declaration of intent shall be made to him.

第 117 條

法律行為須得第三人之同意始生效力者，其同意或拒絕，得向當事人之一方為之。

Article 117

If the validity of a juridical act depends upon the consent of a third party, the giving or the refusal of the consent may be declared to either one of the parties.

第 118 條

無權利人就權利標的物所為之處分，經有權利人之承認始生效力。

無權利人就權利標的物為處分後，取得其權利者，其處分自始有效。但原權利人或第三人已取得之利益，不因此而受影響。

前項情形，若數處分相牴觸時，以其最初之處分為有效。

Article 118

The disposition of any object which is made by a person without title is effective only upon the acknowledgement of the person entitled.

If the person without title acquires title to the object after having made a disposition, the disposition is valid ab initio, but interests obtained by the original interested party or any third party shall not be affected thereupon.

In the preceding paragraph, if several incompatible dispositions have been made, only the earliest disposition is valid.

第五章 期日及期間

Chapter V Dates and Periods

第 119 條

法令、審判或法律行為所定之期日及期間，除有特別訂定外，其計算依本章之規定。

Article 119

The provisions of this chapter apply, unless otherwise provided, to the calculation of dates and periods specified in acts and regulations, judgments, or juridical acts.

第 120 條

以時定期間者，即時起算。

以日、星期、月或年定期間者，其始日不算入。

Article 120

If a period is fixed by hours, it shall commence immediately.

If a period is fixed by days, weeks, months, or years, the first day is not included in the calculation.

第 121 條

以日、星期、月或年定期間者，以期間末日之終止，為期間之終止。期間不以星期、月或年之始日起算者，以最後之星期、月或年與起算日相當日之前一日，為期間之末日。但以月或年定期間，於最後之月，無相當日者，以其月之末日，為期間之末日。

Article 121

If a period is fixed by days, weeks, months, or years, it ends with the ending of the last day of the period.

If a period fixed by weeks, months, and years does not commence from the beginning of a week, month, or year, it ends with the ending of the day which proceeds the day of the last week, month, or year which corresponds to that on which it began to commence. But if there is no corresponding day in the last month, the period ends with the ending of the last day of the last month.

第 122 條

於一定期日或期間內，應為意思表示或給付者，其期日或其期間之末日，為星期日、紀念日或其他休息日時，以其休息日之次日代之。

Article 122

If an expression of intent is required to be made or a performance is to be effected on a specific date or within a specific period, and if the specific day or the last day of the specific period falls on a Sunday, commemoration day, or any

other holiday, the day following the holiday takes it place.

第 123 條

稱月或年者，依曆計算。

月或年非連續計算者，每月為三十日，每年為三百六十五日。

第 124 條

年齡自出生之日起算。

出生之月、日無從確定時，推定其為七月一日出生。知其出生之月，而不知其出生之日者，推定其為該月十五日出生。

第六章 消滅時效

第 125 條

請求權，因十五年間不行使而消滅。但法律所定期間較短者，依其規定。

第 126 條

利息、紅利、租金、贍養費、退職金及其他一年或不及一年之定期給付債權，其各期給付請求權，因五年間不行使而消滅。

第 127 條

左列各款請求權，因二年間不行使而消滅：

一、旅店、飲食店及娛樂場之住宿費、飲食費、座費、消費物之代價及其墊款。

二、運送費及運送人所墊之款。

三、以租賃動產為營業者之租價。

四、醫生、藥師、看護生之診費、藥費，報酬及其墊款。

五、律師、會計師、公證人之報酬及其墊款。

六、律師、會計師、公證人所收當事人物件之交還。

Article 123

The month or the year specified in this code is to be calculated in accordance with the official calendar.

If a period is fixed by months or years in such a manner that they does not calculate consecutively, a month is reckoned as thirty days, a year as three hundred and sixty-five days.

Article 124

The age of a person is counted from his birthday.

If the month and the day of birth of a person are impossible to ascertain, he is presumed to have been born on the first day of July. If the month is known and the day is impossible to ascertain, he is presumed to have been born on the fifteenth day of the said month.

Chapter VI Extinctive Prescription

Article 125

Unless shorter periods are provided by the act, a claim is extinguished by prescription if it is not exercised within fifteen years.

Article 126

If the claim is for the payment of interest, dividends, rentals, maintenance, pensions, and other periodical prestations falling due at sated intervals of one year or less, each successive payment of the claim is extinguished by prescription if it is not exercised within five years.

Article 127

The claim with regard to the following is extinguished by prescription if not exercised within two years:

(1) Charges for lodging, food or seats, for the price of articles for consumption, and for disbursements, made by inn, restaurants and places of entertainment;

(2) Charges for transportation and for disbursements, made by the carrier;

(3) Rentals due to a person who carries on a business of letting personal property;

(4) Fees, charges for medicine and remuneration of medical practitioners, pharmacists and nurses, and the disbursements made by them;

(5) Remuneration of attorneys, certified public accountants and public notaries, and the disbursements made by them;

(6) Restoration of things received from the parties to an action by attorneys, certified public accountants and public notaries;

七、技師、承攬人之報酬及其墊款。

八、商人、製造人、手工業人所供給之商品及產物之代價。

(7) Remuneration of technical experts and undertakers, and the disbursements made by them;

(8) Price of goods or products supplied by merchants, manufactures and those who practice handmade arts.

第 128 條

消滅時效，自請求權可行使時起算。以不行為為目的之請求權，自為行為時起算。

Article 128

Extinctive prescription starts from the moment when the claim may be exercised. If the claim is for the forbearance of an act, the prescription starts from the time of act.

第 129 條

消滅時效，因左列事由而中斷：

一、請求。

二、承認。

三、起訴。

左列事項，與起訴有同一效力：

一、依督促程序，聲請發支付命令。

二、聲請調解或提付仲裁。

三、申報和解債權或破產債權。

四、告知訴訟。

五、開始執行行為或聲請強制執行。

Article 129

Extinctive prescription is interrupted by any one the following causes:

(1) A demand for the satisfaction of the claim;

(2) An acknowledgement of the claim;

(3) An action brought for the satisfaction of the claim;

Any of the following entries is equivalent to bring an action:

(1) Application for issuance of an order for payment in accordance with a hortatory procedure;

(2) Application for conciliation or submission to arbitration;

(3) Representation of a compromise on credit or a claim in a bankruptcy process;

(4) Notice of the pending action;

(5) Institution of proceedings in execution or application for compulsory execution.

第 130 條

時效因請求而中斷者，若於請求後六個月內不起訴，視為不中斷。

Article 130

If a prescription is interrupted by the making of a demand, and if an action has not been brought for the satisfaction of the claim within six months from the date of the demand, the prescription is deemed not to have been interrupted.

第 131 條

時效因起訴而中斷者，若撤回其訴，或因不合法而受駁回之裁判，其裁判確定，視為不中斷。

Article 131

If a prescription is interrupted by bring an action, and is withdrawn or dismissed as non-conformable to the act by a final judgment, the prescription is deemed not to have been interrupted.

第 132 條

時效因聲請發支付命令而中斷者，若撤回聲請，或受駁回之裁判，或支付命令失其效力時，視為不中斷。

Article 132

If a prescription is interrupted by an application of an order for payment, and if the application is withdrawn, or dismissed by a judgment, or the order for payment ceases to be effective, the prescription is deemed not to have been interrupted.

第 133 條

時效因聲請調解或提付仲裁而中斷者，若調解之聲請經撤回、被駁回、調解不成立或仲裁之請求經撤回、仲裁不能達成判斷時，視為不

Article 133

If a prescription is interrupted by an application for conciliation or submission to arbitration, and if the application for conciliation is withdrawn, or dismissed, or the conciliation fail, or the submission to arbitration is withdrawn, or no award can

中斷。

be made in the arbitration, the prescription is deemed not to have been interrupted.

第 134 條

時效因申報和解債權或破產債權而中斷者，若債權人撤回其申報時，視為不中斷。

Article 134

If a prescription is interrupted by presentation of a compromise on credit or a claim in bankruptcy process, and if the presentation is withdrawn, the prescription is deemed not to have been interrupted.

第 135 條

時效因告知訴訟而中斷者，若於訴訟終結後，六個月內不起訴，視為不中斷。

Article 135

If a prescription is interrupted by notice of the pending action, and if no action is brought within six months after termination of the pending action, the prescription is deemed not to have been interrupted.

第 136 條

時效因開始執行行為而中斷者，若因權利人之聲請，或法律上要件之欠缺而撤銷其執行處分時，視為不中斷。

Article 136

If a prescription is interrupted by institution of proceedings in execution, and if the order for execution is vacated upon the application of the person entitled, or by reason of the non-fulfillment of legal requirements, the prescription is deemed not to have been interrupted.

時效因聲請強制執行而中斷者，若撤回其聲請，或其聲請被駁回時，視為不中斷。

If a prescription is interrupted by an application for compulsory execution, and if the application is withdrawn or dismissed, the prescription is deemed not to have been interrupted.

第 137 條

時效中斷者，自中斷之事由終止時，重行起算。
因起訴而中斷之時效，自受確定判決，或因其他方法訴訟終結時，重行起算。
經確定判決或其他與確定判決有同一效力之執行名義所確定之請求權，其原有消滅時效期間不滿五年者，因中斷而重行起算之時效期間為五年。

Article 137

If a prescription has been interrupted, it recommences from the time when termination of the cause of the interruption.
If a prescription has been interrupted by bringing an action, it recommences from the moment when the action is decided by a final judgment on the merits or otherwise terminated.
If the claim is ascertained by a final judgment on the merits or a ground of execution having the same effect as a final judgment on the merits, and if the original prescription was less than five years, the prescription recommenced after interruption shall be five years.

第 138 條

時效中斷，以當事人、繼承人、受讓人之間為限，始有效力。

Article 138

The interruption of a prescription takes effect among the parties, their successors and assignees only.

第 139 條

時效之期間終止時，因天災或其他不可避之事變，致不能中斷其時效者，自其妨礙事由消滅時起，一個月內，其時效不完成。

Article 139

If a prescription can not be interrupted owing to force majeure or any other unavoidable cause at the ending of the period for the prescription, the said prescription is not complete until the expiration of one month from the time when such obstruction ends.

第 140 條

Article 140

屬於繼承財產之權利或對於繼承財產之權利，自繼承人確定或管理人選定或破產之宣告時起，六個月內，其時效不完成。

第 141 條

無行為能力人或限制行為能力人之權利，於時效期間終止前六個月內，若無法定代理人者，自其成為行為能力人或其法定代理人就職時起，六個月內，其時效不完成。

第 142 條

無行為能力人或限制行為能力人，對於其法定代理人之權利，於代理關係消滅後一年內，其時效不完成。

第 143 條

夫對於妻或妻對於夫之權利，於婚姻關係消滅後一年內，其時效不完成。

第 144 條

時效完成後，債務人得拒絕給付。

請求權已經時效消滅，債務人仍為履行之給付者，不得以不知時效為理由，請求返還；其以契約承認該債務或提出擔保者亦同。

第 145 條

以抵押權、質權或留置權擔保之請求權，雖經時效消滅，債權人仍得就其抵押物、質物或留置物取償。

前項規定，於利息及其他定期給付之各期給付請求權，經時效消滅者，不適用之。

第 146 條

主權利因時效消滅者，其效力及於從權利。但法律有特別規定者，不在此限。

The prescription of a claim in favor of or against the property of a succession is not complete until the expiration of six months from the moment when the successor is ascertained, the administrator is appointed or the bankruptcy is declared.

Article 141

If a person who has no capacity to make juridical acts or has a limited capacity to make juridical acts is left without a guardian within six months before the ending of the period for prescription, the said prescription is not complete until the expiration of six months from the time when such person reaches capacity to make juridical acts or when his guardian enters upon his duties.

Article 142

The prescription of a claim against the guardian of person, who has no capacity to make juridical acts or has a limited capacity to make juridical acts, is not complete until the expiration of one year after his legal relation to the guardian has discontinued.

Article 143

The prescription of a claim of a husband against his wife or of a wife against her husband is not complete until the expiration of one year after the marriage has dissolved.

Article 144

After the completion of a prescription, the debtor is entitled to refuse to perform his obligation.

If any prestation is made in satisfaction of a claim extinguished by a prescription, the debtor may not demand the return of the prestation on the ground that he was ignorant of the prescription. The preceding rule applies to a contractual acknowledgement of obligation and to the giving of security for the obligation.

Article 145

Although a claim for which there is a mortgage, a lien, or a right of retention has been extinguished by a prescription, the creditor is still entitled to satisfy him out of the things mortgaged, liened, or retained.

The provision of the preceding paragraph does not apply to a claim for interest or other successive payments of periodical prestations when the claim has been extinguished by prescription.

Article 146

The effect of prescription of the principal claims extends to the accessory claim, unless otherwise provided by the act.

第 147 條

時效期間，不得以法律行為加長或減短之。並不得預先拋棄時效之利益。

第七章 權利之行使**第 148 條**

權利之行使，不得違反公共利益，或以損害他人為主要目的。行使權利，履行義務，應依誠實及信用方法。

第 149 條

對於現時不法之侵害，為防衛自己或他人之權利所為之行為，不負損害賠償之責。但已逾越必要程度者，仍應負相當賠償之責。

第 150 條

因避免自己或他人生命、身體、自由或財產上急迫之危險所為之行為，不負損害賠償之責。但以避免危險所必要，並未逾越危險所能致之損害程度者為限。

前項情形，其危險之發生，如行為人有責任者，應負損害賠償之責。

第 151 條

為保護自己權利，對於他人之自由或財產施以拘束、押收或毀損者，不負損害賠償之責。但以不及受法院或其他有關機關援助，並非於其時為之，則請求權不得實行或其實行顯有困難者為限。

第 152 條

依前條之規定，拘束他人自由或押收他人財產者，應即時向法院聲請處理。

前項聲請被駁回或其聲請遲延者，行為人應負損害賠償之責。

Article 147

The period of prescription may not be extended or reduced by juridical acts. The advantage of prescription may not be waived in advance.

Chapter VII Exercise of Rights**Article 148**

A right can not be exercised for the main purpose of violating public interests or damaging the others.

A right shall be exercised and a duty shall be performed in accordance with the means of good faith.

Article 149

A person acting in defense of his own rights or the rights of another against immediate unlawful infringement thereof is not liable to compensate for any injury arising from his action. But if anything is done in excess of what is required for necessary defense, he is still liable to make a reasonable compensation.

Article 150

A person acting to avoid an imminent danger menacing the life, body, liberty or property of himself or of another is not liable to compensate for any injury arising from his action, provided the action is necessary for avoiding the danger and does not exceed the limit of the injury which would have been caused by the said danger.

Under the circumstances specified in the preceding paragraph, if the person so acting is responsible for the occurrence of the danger, he is liable to compensate for any injury arising from his act.

Article 151

In order to protect his rights, a person who restrains, seizes, or destroys the liberty or the property of another is not liable to compensate for any injury arising therefrom, provided the assistance of the court or other relevant authorities could not be obtained in due time and there was a fact that if the person did not act immediately, the exercise of his rights would be rendered impossible or manifestly arduous.

Article 152

According to the provision of the preceding article, a person who restrains the liberty or seizes the property of another shall apply immediately to the court for assistance.

If the application mentioned in the preceding paragraph is dismissed or is not made in time, this person is liable to

compensate for any injury arising from his action.

第二編 債

第一章 通則

第一節 債之發生

第一款 契約

第 153 條

當事人互相表示意思一致者，無論其為明示或默示，契約即為成立。

當事人對於必要之點，意思一致，而對於非必要之點，未經表示意思者，推定其契約為成立，關於該非必要之點，當事人意思不一致時，法院應依其事件之性質定之。

第 154 條

契約之要約人，因要約而受拘束。但要約當時預先聲明不受拘束，或依其情形或事件之性質，可認當事人無受其拘束之意思者，不在此限。
貨物標定賣價陳列者，視為要約。但價目表之寄送，不視為要約。

第 155 條

要約經拒絕者，失其拘束力。

第 156 條

對話為要約者，非立時承諾，即失其拘束力。

第 157 條

非對話為要約者，依通常情形可期待承諾之達到時期內，相對人不為承諾時，其要約失其拘束力。

第 158 條

要約定有承諾期限者，非於其期限內為承諾，失其拘束力。

Part II Obligations

Chapter I General Provisions

Section 1 - Sources of Obligations

Sub-section 1 Contracts

Article 153

When the parties have reciprocally declared their concordant intent, either expressly or impliedly, a contract shall be constituted.

If the parties agree on all the essential elements of the contract but have expressed no intent as to the non-essential elements, the contract shall be presumed to be constituted. In the absence of an agreement on the above-mentioned non-essential elements, the court shall decide them according to the nature of the affair.

Article 154

A person who offers to make a contract shall be bound by his offer except at the time of offer he has excluded this obligation or except it may be presumed from the circumstances or from the nature of the affair that he did not intend to be bound.

Exposing goods for sale with their selling price shall be deemed to be an offer. However, the sending of pricelists is not deemed to be an offer.

Article 155

An offer ceases to be binding if it is refused.

Article 156

An offer made inter presentes ceases to be binding if it is not accepted at once.

Article 157

An offer made inter absentes ceases to be binding if it is not accepted by the other party within the time during which notice of acceptance may be expected to arrive under ordinary circumstances.

Article 158

If a period of time for the acceptance of the offer has been fixed, the offer ceases to be binding if it is not accepted within such period.

第 159 條

承諾之通知，按其傳達方法，通常在相當時期內可達到而遲到，其情形為要約人可得而知者，應向相對人即發遲到之通知。

要約人怠於為前項通知者，其承諾視為未遲到。

第 160 條

遲到之承諾，除前條情形外，視為新要約。

將要約擴張、限制或為其他變更而承諾者，視為拒絕原要約而為新要約。

第 161 條

依習慣或依其事件之性質，承諾無須通知者，在相當時期內，有可認為承諾之事實時，其契約為成立。前項規定，於要約人要約當時預先聲明承諾無須通知者，準用之。

第 162 條

撤回要約之通知，其到達在要約到達之後，而按其傳達方法，通常在相當時期內應先時或同時到達，其情形為相對人可得而知者，相對人應向要約人即發遲到之通知。

相對人怠於為前項通知者，其要約撤回之通知，視為未遲到。

第 163 條

前條之規定，於承諾之撤回準用之。

第 164 條

以廣告聲明對完成一定行為之人給與報酬者，為懸賞廣告。廣告人對於完成該行為之人，負給付報酬之義務。

數人先後分別完成前項行為時，由最先完成該行為之人，取得報酬請求權；數人共同或同時分別完成行為時，由行為人共同取得報酬請求

Article 159

If an acceptance arrives late though it should usually arrive within a reasonable time by its transmitting manner, and this might be known to the offerer, the offerer should immediately notify the acceptor of such delay.

If the offerer delays the notice specified in the preceding paragraph, the acceptance shall be deemed to have arrived without delay.

Article 160

An acceptance which arrives late, except under the circumstances in the preceding article, shall be deemed to be a new offer.

An acceptance with amplifications, limitations or other alterations shall be deemed to be a refusal of the original offer and the making of a new offer.

Article 161

In cases where according to customs or owing to the nature of the affair, a notice of acceptance is not necessary, the contract shall be constituted when, within a reasonable time, there is a fact, which may be considered as an acceptance of the offer.

The provision of the preceding paragraph shall be mutatis mutandis applied when at the time of offer the offerer has waived notice of acceptance.

Article 162

If a notice of withdrawing an offer arrives after the arrival of the offer itself, though it should usually arrive before or simultaneously with the arrival of the offer within a reasonable time by its transmitting manner, and this might be known to the other party, the other party so notified should notify the offerer immediately of such delay.

If such other party delays the notice specified in the preceding paragraph, the notice of withdrawing the offer shall be deemed to have arrived without delay.

Article 163

The provisions of the preceding article shall apply mutatis mutandis to the withdrawal of acceptance.

Article 164

When a public notice promises to reward the person for his performance of a particular act, it is a rewarding public notice. The promisor is bound to deliver the reward to the person who has performed the act.

When the act specified in the preceding paragraph has been successively performed by several persons, it is the person who has performed first acquires the claim for reward; when the act has been performed jointly by several persons or performed

權。

前項情形，廣告人善意給付報酬於最先通知之人時，其給付報酬之義務，即為消滅。

前三項規定，於不知有廣告而完成廣告所定行為之人，準用之。

第 164-1 條

因完成前條之行為而可取得一定之權利者，其權利屬於行為人。但廣告另有聲明者，不在此限。

第 165 條

預定報酬之廣告，如於行為完成前撤回時，除廣告人證明行為人不能完成其行為外，對於行為人因該廣告善意所受之損害，應負賠償之責。但以不超過預定報酬額為限。

廣告定有完成行為之期間者，推定廣告人拋棄其撤回權。

第 165-1 條

以廣告聲明對完成一定行為，於一定期間內為通知，而經評定為優等之人給與報酬者，為優等懸賞廣告。廣告人於評定完成時，負給付報酬之義務。

第 165-2 條

前條優等之評定，由廣告中指定之人為之。廣告中未指定者，由廣告人決定方法評定之。

依前項規定所為之評定，對於廣告人及應徵人有拘束力。

第 165-3 條

被評定為優等之人有數人同時，除廣告另有聲明外，共同取得報酬請求權。

第 165-4 條

第一百六十四條之一之規定，於優

simultaneously by several persons respectively, it is these persons who acquire the claim for reward jointly.

In the preceding paragraph, if the promisor has delivered the reward in good faith to the person who has first notified his performance, the obligation of the promisor to deliver the reward shall be extinguished.

The provisions of the preceding three paragraphs shall apply mutatis mutandis to the person who has performed such act specified in the public notice without knowing of this notice.

Article 164-1

If there is a specific right acquired because of the performance of an act in the preceding article, this right shall belong to the person who has performed the act, unless otherwise notified in the public notice.

Article 165

When a promise of reward made by a public notice is withdrawn before the act is performed, the promisor is bound to compensate the person performing the act in good faith for the injury arising therefrom, unless the promisor can prove that the person could have never performed the act. The compensation shall not exceed the amount of the promised reward.

When there is a period of time fixed for the performance in the public notice, the promisor is presumed to waive his withdrawing right.

Article 165-1

If a public notice promises to reward the person who has performed a particular act, notified within a certain period of time and has been evaluated as the best, it is a rewarding public notice for the best. The promisor is bound to deliver the reward in the completion of the evaluation.

Article 165-2

The evaluation in the preceding article shall be proceeded by the person appointed in the public notice. If there is no any appointment in the public notice, it shall be proceed with the manner decided by the promisor.

The evaluation according to the provision of the preceding paragraph shall be binding on the promisor and the promisee.

Article 165-3

If there are several persons evaluated as the best, unless otherwise notified in the public notice, these persons acquire the claim for reward jointly.

Article 165-4

The provision of Article 164-1 shall apply mutatis mutandis to

等懸賞廣告準用之。

the rewarding public notice for the best.

第 166 條

契約當事人約定其契約須用一定方式者，在該方式未完成前，推定其契約不成立。

Article 166

If it is agreed between the parties that a contract shall be made in a certain definite form, the contract is presumed to be not constituted before the completion of such form.

第 166-1 條

契約以負擔不動產物權之移轉、設定或變更之義務為標的者，應由公證人作成公證書。

未依前項規定公證之契約，如當事人已合意為不動產物權之移轉、設定或變更而完成登記者，仍為有效。

Article 166-1

If a contract is made for the obligations of the transferring, creation, or altering of rights over the real property, it shall be made in the notarization made by the notary public.

A contract not notarized according to the provision of the preceding paragraph could still be valid if the parties have agreed on the transferring, creation, or altering of rights over the real property and have completed the recordation.

第二款 代理權之授與

Sub-section 2 Conferring Of Authority Of Agency

第 167 條

代理權係以法律行為授與者，其授與應向代理人或向代理人對之為代理行為之第三人，以意思表示為之。

Article 167

If authority of agency is conferred by a juridical act, it shall be made by an expression of intent to the agent or to the third party with whom the delegated act is transacted.

第 168 條

代理人有數人者，其代理行為應共同為之。但法律另有規定或本人另有意思表示者，不在此限。

Article 168

If there are several agents, the delegated act shall be transacted by them jointly, unless otherwise provided by the act or the principal's expression of intent.

第 169 條

由自己之行為表示以代理權授與他人，或知他人表示為其代理人而不為反對之表示者，對於第三人應負授權人之責任。但第三人明知其無代理權或可得而知者，不在此限。

Article 169

A person, who by his own acts represents he has conferred the authority of agency to another person, or who knows that another person declares himself to be his agent and failed to express a contrary intent, shall be liable to the third party as a person who has conferred that authority, except the third party knew, or might know of the absence of authority.

第 170 條

無代理權人以代理人之名義所為之法律行為，非經本人承認，對於本人不生效力。

前項情形，法律行為之相對人，得定相當期限，催告本人確答是否承認，如本人逾期未為確答者，視為拒絕承認。

Article 170

A juridical act made in the name of an agent by a person of no authority of agency shall not be effective to the principal except it is acknowledged by the principal.

In the case specified in the preceding paragraph, the other party to the juridical act may fix a reasonable period and request the principal to declare definitely whether he acknowledges it or not. If the principal does not give a definite answer within the specified period, the acknowledgement shall be deemed to have been refused.

第 171 條

無代理權人所為之法律行為，其相對人於本人未承認前，得撤回之。但為法律行為時，明知其無代理權者，不在此限。

Article 171

[The expression of intend in]A juridical act made by a person of no authority of agency may be withdrawn by the other party to the act before the acknowledgement of the principal, except where such other party knew of the absence of authority at the time of the act.

第三款 無因管理

Sub-section 3 Management Of Affairs Without Mandate

第 172 條

未受委任，並無義務，而為他人管理事務者，其管理應依本人明示或可得推知之意思，以有利於本人之方法為之。

Article 172

A person, who manages an affair of another person without a mandate or obligation, shall manage the affair in conformity with the principal's expressed or presumptive wishes and in the manner beneficial to the principal.

第 173 條

管理人開始管理時，以能通知為限，應即通知本人。如無急迫之情事，應俟本人之指示。

Article 173

The manager shall notify the principal without delay at the beginning of the management in so far as the notice is possible. If there is no urgency, he shall wait for the instructions of the principal.

第五百四十條至第五百四十二條關於委任之規定，於無因管理準用之。

The provisions of Articles 540 to Article 542 concerning Mandate shall apply mutatis mutandis to Management of Affairs without Mandate.

第 174 條

管理人違反本人明示或可得推知之意思，而為事務之管理者，對於因其管理所生之損害，雖無過失，亦應負賠償之責。

Article 174

If the undertaking of the management of the affair is against the principal's expressed or presumptive wishes, the manager is bound to compensate the principal for any injury arising from his management, even if no negligence is in his act.

前項之規定，如其管理係為本人盡公益上之義務，或為其履行法定扶養義務，或本人之意思違反公共秩序善良風俗者，不適用之。

The provision of the preceding paragraph shall not apply if the undertaking of the management of the affair is in order to fulfill an obligation of public interests for the principal or to fulfill a statutory duty of the principal to furnish maintenance to others, or the principal's wishes are against the public policy or morals.

第 175 條

管理人為免除本人之生命、身體或財產上之急迫危險，而為事務之管理者，對於因其管理所生之損害，除有惡意或重大過失者外，不負賠償之責。

Article 175

If the undertaking of the management of the affair is in order to avert an imminent danger which threatens the life, body or property of the principal, the manager is not responsible for any injury derived from his management, except in case of bad faith or gross negligence.

第 176 條

管理事務，利於本人，並不違反本人明示或可得推知之意思者，管理人為本人支出必要或有益之費用，或負擔債務，或受損害時，得請求本人償還其費用及自支出時

Article 176

If the management of the affair is beneficial to the principal and is not against his expressed or presumptive wishes, and where the manager has, for the principal, made necessary or beneficial expenses, or assumed debt, or suffered injury, he is entitled to claim against the principal for the reimbursement of such

起之利息，或清償其所負擔之債務，或賠償其損害。

第一百七十四條第二項規定之情形，管理人管理事務，雖違反本人之意思，仍有前項之請求權。

第 177 條

管理事務不合於前條之規定時，本人仍得享有因管理所得之利益，而本人所負前條第一項對於管理人之義務，以其所得之利益為限。

前項規定，於管理人明知為他人之事務，而為自己之利益管理之者，準用之。

第 178 條

管理事務經本人承認者，除當事人有特別意思表示外，溯及管理事務開始時，適用關於委任之規定。

第四款 不當得利

第 179 條

無法律上之原因而受利益，致他人受損害者，應返還其利益。雖有法律上之原因，而其後已不存在者，亦同。

第 180 條

給付，有左列情形之一者，不得請求返還：

- 一、給付係履行道德上之義務者。
- 二、債務人於未到期之債務因清償而為給付者。
- 三、因清償債務而為給付，於給付時明知無給付之義務者。
- 四、因不法之原因而為給付者。但不法之原因僅於受領人一方存在時，不在此限。

第 181 條

expenses plus interest commencing from the date of outlay, or the payment of such debt, or compensation for the injury sustained.

In the cases provided by the second paragraph of Article 174, the manager may still have the claim in the preceding paragraph, even if the undertaking of the management of the affair is against the principal's wishes.

Article 177

If the management of the affair does not accord with the provisions of the preceding article, the principal may still be entitled to the interests derived from the management. But the obligation specified in the first paragraph of the preceding article of the principal towards the manager shall be only to the extent of the interests he acquired.

The provision of the preceding paragraph shall apply mutatis mutandis to the situation when the manager knew it was another person's affair but still managed for his own interests.

Article 178

If the management of the affair is acknowledged by the principal, unless otherwise expressed by the parties, from the beginning of the management, the provisions concerning Mandate shall be applied.

Sub-section 4 Unjust Enrichment

Article 179

A person who acquires interests without any legal ground and prejudice to the other shall be bound to return it. The same rule shall be applied if a legal ground existed originally but disappeared subsequently.

Article 180

In any of the following cases, the prestation shall not be claimed to return:

- (1) If the prestation was for the performance of a moral obligation;
- (2) If the prestation made by the debtor for the performance of an undue obligation;
- (3) If the person who has made a prestation for the purpose of performing an obligation knew, at the time of performance, that he was not bound to perform;
- (4) If the prestation was made for an unlawful cause. Except when the unlawful cause exists only with regard to the recipient.

Article 181

不當得利之受領人，除返還其所受之利益外，如本於該利益更有所取得者，並應返還。但依其利益之性質或其他情形不能返還者，應償還其價額。

第 182 條

不當得利之受領人，不知無法律上之原因，而其所受之利益已不存在者，免負返還或償還價額之責任。受領人於受領時，知無法律上之原因或其後知之者，應將受領時所得之利益，或知無法律上之原因時所現存之利益，附加利息，一併償還；如有損害，並應賠償。

第 183 條

不當得利之受領人，以其所受者，無償讓與第三人，而受領人因此免返還義務者，第三人於其所免返還義務之限度內，負返還責任。

第五款 侵權行為

第 184 條

因故意或過失，不法侵害他人之權利者，負損害賠償責任。故意以背於善良風俗之方法，加損害於他人者亦同。

違反保護他人之法律，致生損害於他人者，負賠償責任。但能證明其行為無過失者，不在此限。

第 185 條

數人共同不法侵害他人之權利者，連帶負損害賠償責任。不能知其中孰為加害人者，亦同。

造意人及幫助人，視為共同行為人。

第 186 條

公務員因故意違背對於第三人應執行之職務，致第三人受損害者，

In addition to the interests received, a recipient unjustly enriched shall return whatever he acquired by virtue of such interests. If restitution is impossible by reason of the very nature of the interests or by reason of any other circumstance, he shall be bound to reimburse the value.

Article 182

The recipient, who did not know of the absence of the legal ground and the interests have no longer existed, is released from the obligation to return the interests or reimburse the value.

If the recipient knew of the absence of the legal ground at the time of the receipt, or if he was subsequently aware of it, he shall be bound to return the interests acquired at the time of the receipt or such interests still existing at the time when he was aware of the absence of the legal ground plus the interest and to make compensation for the injury, if any.

Article 183

When the recipient unjustly enriched transferred gratuitously whatever he has received to a third party, and therefore the recipient is released from his obligation to return the interests, such third party shall be bound to make restitution to the extent which the recipient is released from his obligation.

Sub-section 5 Torts

Article 184

A person who, intentionally or negligently, has wrongfully damaged the rights of another is bound to compensate him for any injury arising therefrom. The same rule shall be applied when the injury is done intentionally in a manner against the rules of morals.

A person, who violates a statutory provision enacted for the protection of others and therefore prejudice to others, is bound to compensate for the injury, except no negligence in his act can be proved.

Article 185

If several persons have wrongfully damaged the rights of another jointly, they are jointly liable for the injury arising therefrom. The same rule shall be applied even if which one has actually caused the injury cannot be sure.

Instigators and accomplices are deemed to be joint tortfeasors.

Article 186

An official, who has intentionally committed a breach of duty which he ought to exercise in favor of a third party and

負賠償責任。其因過失者，以被害人不能依他項方法受賠償時為限，負其責任。

前項情形，如被害人得依法律上之救濟方法，除去其損害，而因故意或過失不為之者，公務員不負賠償責任。

第 187 條

無行為能力人或限制行為能力人，不法侵害他人之權利者，以行為時有識別能力為限，與其法定代理人連帶負損害賠償責任。行為時無識別能力者，由其法定代理人負損害賠償責任。

前項情形，法定代理人如其監督並未疏懈，或縱加以相當之監督，而仍不免發生損害者，不負賠償責任。

如不能依前二項規定受損害賠償時，法院因被害人之聲請，得斟酌行為人及其法定代理人與被害人之經濟狀況，令行為人或其法定代理人為全部或一部之損害賠償。

前項規定，於其他之人，在無意識或精神錯亂中所為之行為致第三人受損害時，準用之。

第 188 條

受僱人因執行職務，不法侵害他人之權利者，由僱用人與行為人連帶負損害賠償責任。但選任受僱人及監督其職務之執行，已盡相當之注意或縱加以相當之注意而仍不免發生損害者，僱用人不負賠償責任。

如被害人依前項但書之規定，不能受損害賠償時，法院因其聲請，得斟酌僱用人與被害人之經濟狀況，令僱用人為全部或一部之損害賠償。

僱用人賠償損害時，對於為侵權行

therefore prejudice to such third party, is liable for any injury arising therefrom. If the breach is the result of this official's negligence, he may be held liable to compensate only in so far as the injured person is unable to obtain compensation by other means.

In the case mentioned in the preceding paragraph, if the injured person who may obviate the injury by making use of a legal remedy has intentionally or negligently omitted to make use of it, the official shall not be liable to compensate for the injury.

Article 187

A person of no capacity or limited in capacity to make juridical acts, who has wrongfully damaged the rights of another, shall be jointly liable with his guardian for any injury arising therefrom if he is capable of discernment at the time of committing such an act. If he is incapable of discernment at the time of committing the act, his guardian alone shall be liable for such injury.

In the case of the preceding paragraph, the guardian is not liable if there is no negligence in his duty of supervision, or if the injury would have been occasioned notwithstanding the exercise of reasonable supervision.

If compensation cannot be obtained according to the provisions of the preceding two paragraphs, the court may, on the application of the injured person, take the financial conditions among the tortfeasors, the guardian and the injured person into consideration, and order the tortfeasors or his guardian to compensate for a part or the whole of the injury.

The provision of the preceding paragraph shall apply mutatis mutandis to cases where the injury has been caused to a third party by a person other than those specified in the first paragraph in a condition of unconsciousness or of mental disorder.

Article 188

The employer shall be jointly liable to make compensation for any injury which the employee has wrongfully caused to the rights of another in the performance of his duties. However, the employer is not liable for the injury if he has exercised reasonable care in the selection of the employee, and in the supervision of the performance of his duties, or if the injury would have been occasioned notwithstanding the exercise of such reasonable care.

If compensation cannot be obtained according to the provision of the preceding paragraph, the court may, on the application of the injured person, take the financial conditions of the employer and the injured person into consideration, and order the employer to compensate for a part or the whole of the injury.

The employer who has made compensation as specified in the

為之受僱人，有求償權。

preceding paragraph may claim for reimbursement against the employee committed the wrongful act.

第 189 條

承攬人因執行承攬事項，不法侵害他人之權利者，定作人不負損害賠償責任。但定作人於定作或指示有過失者，不在此限。

Article 189

The proprietor is not liable for the injury wrongfully caused by an undertaker to the rights of another in the course of his work, unless the proprietor was negligent in regard to the work ordered or his instructions.

第 190 條

動物加損害於他人者，由其占有人負損害賠償責任。但依動物之種類及性質已為相當注意之管束，或縱為相當注意之管束而仍不免發生損害者，不在此限。

Article 190

If injury is caused by an animal, the possessor is bound to compensate the injured person for any injury arising therefrom, unless reasonable care in keeping according to the species and nature of the animal has been exercised, or unless the injury would have been occasioned notwithstanding the exercise of such reasonable care.

動物係由第三人或他動物之挑動，致加損害於他人者，其占有人對於該第三人或該他動物之占有人，有求償權。

The possessor may claim for reimbursement against the third party, who has excited or provoked the animal, or against the possessor of another animal which has caused the excitement or provocation.

第 191 條

土地上之建築物或其他工作物所致他人權利之損害，由工作物之所有人負賠償責任。但其對於設置或保管並無欠缺，或損害非因設置或保管有欠缺，或於防止損害之發生，已盡相當之注意者，不在此限。

Article 191

The injury, which is caused by a building or other work on privately owned land, shall be compensated by the owner of such building or work, unless there is no defective construction or insufficient maintenance in such building or work, or the injury was not caused by the defectiveness or insufficiency, or the owner has exercised reasonable care to prevent such injury.

前項損害之發生，如別有應負責任之人時，賠償損害之所有人，對於該應負責者，有求償權。

In the case of the preceding paragraph, if there is another person who shall be responsible for the injury, the owner making compensation may make a claim for reimbursement against such person.

第 191-1 條

商品製造人因其商品之通常使用或消費所致他人之損害，負賠償責任。但其對於商品之生產、製造或加工、設計並無欠缺或其損害非因該項欠缺所致或於防止損害之發生，已盡相當之注意者，不在此限。

Article 191-1

The manufacturer is liable for the injury to another arising from the common use or consumption of his merchandise, unless there is no defectiveness in the production, manufacture, process, or design of the merchandise, or the injury is not caused by the defectiveness, or the manufacturer has exercised reasonable care to prevent the injury.

前項所稱商品製造人，謂商品之生產、製造、加工業者。其在商品上附加標章或其他文字、符號，足以表彰係其自己所生產、製造、加工者，視為商品製造人。

The manufacturer mentioned in the preceding paragraph is the person who produces, manufactures, or processes the merchandise. Those, who attach the merchandise with the service mark, or other characters, signs to the extent enough to show it was produced, manufactured, or processed by them, shall be deemed to be the manufacturer.

商品之生產、製造或加工、設計，

If the production, manufacture, process, or design of the

與其說明書或廣告內容不符者，視為有欠缺。

商品輸入業者，應與商品製造人負同一之責任。

第 191-2 條

汽車、機車或其他非依軌道行駛之動力車輛，在使用中加損害於他人者，駕駛人應賠償因此所生之損害。但於防止損害之發生，已盡相當之注意者，不在此限。

第 191-3 條

經營一定事業或從事其他工作或活動之人，其工作或活動之性質或其使用之工具或方法有生損害於他人之危險者，對他人之損害應負賠償責任。但損害非由於其工作或活動或其使用之工具或方法所致，或於防止損害之發生已盡相當之注意者，不在此限。

第 192 條

不法侵害他人致死者，對於支出醫療及增加生活上需要之費用或殯葬費之人，亦應負損害賠償責任。

被害人對於第三人負有法定扶養義務者，加害人對於該第三人亦應負損害賠償責任。

第一百九十三條第二項之規定，於前項損害賠償適用之。

第 193 條

不法侵害他人之身體或健康者，對於被害人因此喪失或減少勞動能力或增加生活上之需要時，應負損害賠償責任。

前項損害賠償，法院得因當事人之聲請，定為支付定期金。但須命加害人提出擔保。

第 194 條

不法侵害他人致死者，被害人之父、母、子、女及配偶，雖非財產上之損害，亦得請求賠償相當之金額。

merchandise is inconsistent with the contents of its manual or advertisement, it is deemed to be defective.

The importer shall be as liable for the injury as the manufacturer.

Article 191-2

If an automobile, motorcycle or other motor vehicles which need not to be driven on tracks in use has caused the injury to another, the driver shall be liable for the injury arising therefrom, unless he has exercised reasonable care to prevent the injury.

Article 191-3

The person, who runs a particular business or does other work or activity, shall be liable for the injury to another if the nature of the work or activity, or the implement or manner used might damage to another. Except the injury was not caused by the work or activity, or by the implement or manner used, or he has exercised reasonable care to prevent the injury.

Article 192

A person who has wrongfully caused the death of another shall also be bound to make compensation for the injury to any person incurring the medical expenses, increasing the need in living, or incurring the funeral expenses.

If the deceased was statutorily bound to furnish maintenance to a third party, the tortfeasor shall also make compensation to such third party for any injury arising therefrom.

The provision of the second paragraph of Article 193 shall apply to the compensation of the preceding paragraph.

Article 193

If a person has wrongfully damaged to the body or health of another, and caused the injured person to lose or decrease his laboring capacity, or to increase the need in living, the tortfeasors shall be bound to make compensation to the injured person for any injury arising therefrom.

The court may, on the application of the parties, order the compensation of the preceding paragraph to be made in periodical payments of money, but the court shall compel the tortfeasor to furnish security.

Article 194

In case of death caused by a wrongful act, the father, mother, sons, daughters and spouse of the deceased may claim for a reasonable compensation in money even if such injury is not a purely pecuniary loss.

第 195 條

不法侵害他人之身體、健康、名譽、自由、信用、隱私、貞操，或不法侵害其他人格法益而情節重大者，被害人雖非財產上之損害，亦得請求賠償相當之金額。其名譽被侵害者，並得請求回復名譽之適當處分。

前項請求權，不得讓與或繼承。但以金額賠償之請求權已依契約承諾，或已起訴者，不在此限。

前二項規定，於不法侵害他人基於父、母、子、女或配偶關係之身分法益而情節重大者，準用之。

第 196 條

不法毀損他人之物者，被害人得請求賠償其物因毀損所減少之價額。

第 197 條

因侵權行為所生之損害賠償請求權，自請求權人知有損害及賠償義務人時起，二年間不行使而消滅。自有侵權行為時起，逾十年者亦同。

損害賠償之義務人，因侵權行為受利益，致被害人受損害者，於前項時效完成後，仍應依關於不當得利之規定，返還其所受之利益於被害人。

第 198 條

因侵權行為對於被害人取得債權者，被害人對該債權之廢止請求權，雖因時效而消滅，仍得拒絕履行。

第二節 債之標的

第 199 條

債權人基於債之關係，得向債務人請求給付。

給付，不以有財產價格者為限。

Article 195

If a person has wrongfully damaged to the body, health, reputation, liberty, credit, privacy or chastity of another, or to another's personality in a severe way, the injured person may claim a reasonable compensation in money even if such injury is not a purely pecuniary loss. If it was reputation that has been damaged, the injured person may also claim the taking of proper measures for the rehabilitation of his reputation.

The claim of the preceding paragraph shall not be transferred or inherited, except a claim for compensation in money has been promised by contract or has been commenced.

The provisions of the preceding two paragraphs shall be mutatis mutandis applied when a person has wrongfully damaged to another's status based on the relationship to their father, mother, sons, daughters, or spouse in a severe way.

Article 196

If a person has wrongfully damaged to a thing which belongs to another, the injured person may claim to make compensation for the diminution of the value of the thing.

Article 197

The claim for the injury arising from a wrongful act shall be extinguished by prescription, if not exercised within two years from the date when the injury and the person bound to make compensation became known to the injured person. The same rule shall be applied if ten years have elapsed from the date when the wrongful act was committed.

A person bound to make compensation shall, even after the completion of prescription under the preceding paragraph, return to the injured person in accordance with the provisions concerning Unjust Enrichment whatever he has acquired through a wrongful act and therefore prejudiced to the injured person.

Article 198

If a person acquires a claim against the injured person by a wrongful act, the latter may still refuse to perform even if the claim for avoidance has been extinguished by prescription.

Section 2 - Object Of Obligations

Article 199

By virtue of an obligation, the creditor is entitled to claim a prestation from the debtor.

A prestation may consist in something which cannot be valued

不作為亦得為給付。

第 200 條

給付物僅以種類指示者，依法律行為之性質或當事人之意思不能定其品質時，債務人應給以中等品質之物。

前項情形，債務人交付其物之必要行為完結後，或經債權人之同意指定其應交付之物時，其物即為特定給付物。

第 201 條

以特種通用貨幣之給付為債之標的者，如其貨幣至給付期失通用效力時，應給以他種通用貨幣。

第 202 條

以外國通用貨幣定給付額者，債務人得按給付時，給付地之市價，以中華民國通用貨幣給付之。但訂明應以外國通用貨幣為給付者，不在此限。

第 203 條

應付利息之債務，其利率未經約定，亦無法律可據者，週年利率為百分之五。

第 204 條

約定利率逾週年百分之十二者，經一年後，債務人得隨時清償原本。但須於一個月前預告債權人。

前項清償之權利，不得以契約除去或限制之。

第 205 條

約定利率，超過週年百分之二十者，債權人對於超過部分之利息，無請求權。

第 206 條

債權人除前條限定之利息外，不得以折扣或其他方法，巧取利益。

in money.

A prestation may consist in forbearance.

Article 200

When the object of the prestation is determined only in kind, if its quality cannot be determined by the nature of the juridical act or the intent of the parties, the debtor must deliver a thing of medium quality.

In the case of the preceding paragraph, if the debtor has done whatever is necessary for the delivery of such a thing, or if, with the consent of the creditor, he has designated a thing to be delivered, such thing is designated as the object of the prestation.

Article 201

When the object of the obligation is a prestation of a particular kind of currency in vogue and when at the time of prestation this currency is no longer in vogue, the debtor shall make prestation in another currency in vogue.

Article 202

When the object of the prestation is expressed in a foreign currency in vogue, the debtor may make prestation in currency of the Republic of China at the market rate of the place and time of prestation, except it has been agreed upon by the parties that prestation shall be made in the foreign currency in vogue.

Article 203

In the case of a debt bearing interest, if no rate has been fixed by the contract or by the act, the rate shall be five percent (5%) per annum.

Article 204

If the agreed rate of interest is over twelve percent (12%) per annum, the debtor may at any time after one year has elapsed discharge the capital, but he shall notify the creditor one month before.

The right of discharge specified in the preceding paragraph shall not be excluded or limited by the contract.

Article 205

If the agreed rate of interest exceeds twenty percent (20%) per annum, the creditor shall not be entitled to claim any interest over twenty percent (20%).

Article 206

The creditor shall not cunningly obtain interests by discounting or by any other way, except the interest specified in the preceding article.

第 207 條

利息不得滾入原本再生利息。但當事人以書面約定，利息遲付逾一年後，經催告而不償還時，債權人得將遲付之利息滾入原本者，依其約定。

前項規定，如商業上另有習慣者，不適用之。

第 208 條

於數宗給付中得選定其一者，其選擇權屬於債務人。但法律另有規定或契約另有訂定者，不在此限。

第 209 條

債權人或債務人有選擇權者，應向他方當事人以意思表示為之。

由第三人為選擇者，應向債權人及債務人以意思表示為之。

第 210 條

選擇權定有行使期間者，如於該期間內不行使時，其選擇權移屬於他方當事人。

選擇權未定有行使期間者，債權至清償期時，無選擇權之當事人，得定相當期限催告他方當事人行使其選擇權，如他方當事人不於所定期限內行使選擇權者，其選擇權移屬於為催告之當事人。

由第三人為選擇者，如第三人不能或不欲選擇時，選擇權屬於債務人。

第 211 條

數宗給付中，有自始不能或嗣後不能給付者，債之關係僅存在於餘存之給付。但其不能之事由，應由無選擇權之當事人負責者，不在此限。

第 212 條

選擇之效力，溯及於債之發生時。

第 213 條

負損害賠償責任者，除法律另有規定或契約另有訂定外，應回復他方

Article 207

Interest shall not be added to capital and again bear interest; unless otherwise agreed by the parties in writing that the creditor may add interest to the capital after interest has been in arrears for more than one year and has not been paid notwithstanding the demand of the creditor.

The provision of the preceding paragraph does not apply in case there is a different trade custom.

Article 208

When the prestation is to be selected from among several prestations, the right of choice belongs to the debtor, unless otherwise provided by the act or by the contract.

Article 209

Either the creditor or the debtor who has the right of choice shall exercise it by an expression of intent to the other party.

If a third party has the right of choice, he shall exercise it by an expression of intent to both the creditor and the debtor.

Article 210

If there is a fixed period for exercising the right of choice and it is not exercised within such period, the right of choice will be transferred to the other party.

If there is no fixed period for exercising the right of choice, the party who has no such right may, when the obligation becomes due, fix a reasonable time and notify the other party to exercise his right of choice within such time. If the other party does not exercise his right of choice within the fixed period, the right of choice will be transferred to the party who notified.

If the choice is to be made by a third party and such person is unable or unwilling to exercise it, the right of choice will be transferred to the debtor.

Article 211

If one of the several prestations is impossible from the beginning or becomes impossible subsequently, the obligation exists only in the prestations which remain possible, except the party who has no right of choice shall be responsible for the impossibility.

Article 212

The effect of the choice is retroactive back to the time when the obligation occurred.

Article 213

Unless otherwise provided by the act or by the contract, a person who is bound to make compensation for an injury shall

損害發生前之原狀。
因回復原狀而應給付金錢者，自損害發生時起，加給利息。
第一項情形，債權人得請求支付回復原狀所必要之費用，以代回復原狀。

restore the injured party to the status quo before the injury.
If the restoration of the status quo ante shall be paid in money, interest shall be added from the time of the injury.
Under the circumstances of the first paragraph, the creditor may claim the necessary expenses for restoration instead of the restoration.

第 214 條

應回復原狀者，如經債權人定相當期限催告後，逾期不為回復時，債權人得請求以金錢賠償其損害。

Article 214

If the person who is bound for the restoration of the status quo ante does not perform his obligation within a reasonable period fixed by the creditor, the latter may claim compensation in money for the injury sustained.

第 215 條

不能回復原狀或回復顯有重大困難者，應以金錢賠償其損害。

Article 215

If it is impossible or obviously and greatly difficult for the restoration of the status quo ante, the injury sustained shall be compensated in money.

第 216 條

損害賠償，除法律另有規定或契約另有訂定外，應以填補債權人所受損害及所失利益為限。
依通常情形，或依已定之計劃、設備或其他特別情事，可得預期之利益，視為所失利益。

Article 216

Unless otherwise provided by the act or by the contract, the compensation shall be limited to the injury actually suffered and the interests which have been lost.
Interests which could have been normally expected are deemed to be the interests which have been lost, according to the ordinary course of things, the decided projects, equipment, or other particular circumstances.

第 216-1 條

基於同一原因事實受有損害並受有利益者，其請求之賠償金額，應扣除所受之利益。

Article 216-1

If there are injury suffered and interests acquired derived from the same reason, the interests acquired shall be deducted from the amount of the compensation claimed.

第 217 條

損害之發生或擴大，被害人與有過失者，法院得減輕賠償金額，或免除之。
重大之損害原因，為債務人所不及知，而被害人不預促其注意或怠於避免或減少損害者，為與有過失。

Article 217

If the injured person has negligently contributed in causing or aggravating the injury, the court may reduce or release the amount of the compensation.
If the reason of a grave injury was unknown to the debtor and the injured person has omitted to call the attention of the debtor beforehand, or to avert, or mitigate the injury, the injured person will be deemed to be negligently contributed in the injury.
The provisions of the preceding two paragraphs shall apply mutatis mutandis to the situation when the agent of the injured person or the person performing the obligation for the injured person has negligently contributed to the injury.

前二項之規定，於被害人之代理人或使用人與有過失者，準用之。

第 218 條

損害非因故意或重大過失所致者，如其賠償致賠償義務人之生計有重大影響時，法院得減輕其賠償

Article 218

When the injury was not caused intentionally or grossly negligently, and if the compensation would gravely affect the livelihood of the person responsible for it, the court may reduce

金額。

the amount of the compensation.

第 218-1 條

關於物或權利之喪失或損害，負賠償責任之人，得向損害賠償請求權人，請求讓與基於其物之所有權或基於其權利對於第三人之請求權。

第二百六十四條之規定，於前項情形準用之。

Article 218-1

If a person who is bound to make compensation for the loss or damage of a thing or a right, he may claim from another, who is entitled to claim for the injury, for the transfer of the claims which the latter has against the third party by virtue of his ownership of the said thing, or by virtue of the said right.

The provisions of Article 264 shall apply mutatis mutandis to the situation of the preceding paragraph.

第三節 債之效力

Section 3 - Effects Of Obligations

第一款 給付

Sub-section 1 Performance

第 219 條

(刪除)

Article 219

(Repealed)

第 220 條

債務人就其故意或過失之行為，應負責任。

過失之責任，依事件之特性而有輕重，如其事件非予債務人以利益者，應從輕酌定。

Article 220

The debtor shall be responsible for his acts, whether intentional or negligent.

The extent of responsibility for one's negligence varies with the particular nature of the affair; but such responsibility shall be lessened, if the affair is not intended to procure interests to the debtor.

第 221 條

債務人為無行為能力人或限制行為能力人者，其責任依第一百八十七條之規定定之。

Article 221

Where the debtor is a person of no or limited in capacity to make juridical acts, his responsibility shall be determined according to the provisions of Article 187.

第 222 條

故意或重大過失之責任，不得預先免除。

Article 222

Responsibility for intentional or gross negligent acts shall not be released in advance.

第 223 條

應與處理自己事務為同一注意者，如有重大過失，仍應負責。

Article 223

A person who is answerable for such care as he is accustomed to in the management of his own affairs, shall still be responsible for his gross negligent acts.

第 224 條

債務人之代理人或使用人，關於債之履行有故意或過失時，債務人應與自己之故意或過失負同一責任。但當事人另有訂定者，不在此限。

Article 224

A debtor shall be responsible for the intentional or negligent acts of his agent and of the person performing the obligation for him to the same extent as he is responsible for his own intentional or negligent acts. Unless otherwise agreed upon by the parties.

第 225 條

Article 225

因不可歸責於債務人之事由，致給付不能者，債務人免給付義務。

債務人因前項給付不能之事由，對第三人有損害賠償請求權者，債權人得向債務人請求讓與其損害賠償請求權，或交付其所受領之賠償物。

第 226 條

因可歸責於債務人之事由，致給付不能者，債權人得請求賠償損害。

前項情形，給付一部不能者，若其他部分之履行，於債權人無利益時，債權人得拒絕該部之給付，請求全部不履行之損害賠償。

第 227 條

因可歸責於債務人之事由，致為不完全給付者，債權人得依關於給付遲延或給付不能之規定行使其權利。

因不完全給付而生前項以外之損害者，債權人並得請求賠償。

第 227-1 條

債務人因債務不履行，致債權人之格權受侵害者，準用第一百九十二條至第一百九十五條及第一百九十七條之規定，負損害賠償責任。

第 227-2 條

契約成立後，情事變更，非當時所得預料，而依其原有效果顯失公平者，當事人得聲請法院增、減其給付或變更其他原有之效果。

前項規定，於非因契約所發生之債，準用之。

第 228 條

(刪除)

The debtor will be released from his obligation to perform if the performance becomes impossible by reason of a circumstance to which he is not imputed.

If the debtor is entitled to claim compensation for the injury against a third party in consequence of the impossibility of the performance under the preceding paragraph, the creditor may claim against the debtor for the transfer of the claim for the injury, or for the delivery of the compensation he has received.

Article 226

If the performance becomes impossible by reason of a circumstance to which the debtor is imputed, the creditor may claim compensation for any injury arising therefrom.

In the case specified in the preceding paragraph, if one part of the performance becomes impossible and the remaining part, if performed, will be of no interests to the creditor, the creditor may refuse the performance of the remaining part and claim compensation for the injury arising from complete non-performance.

Article 227

If a debtor incompletely performs his obligation by reason of a circumstance to which the debtor is imputed, the creditor may execute his right according to the provisions of the default or the impossibility of the performance.

In addition to the injury arising from the incomplete performance in the preceding paragraph, the creditor may claim compensation for other injuries arising therefrom, if any.

Article 227-1

If the creditor's personality has been injured by reason of the debtor's non-performance, the debtor shall be bound to compensate for the injury in compliance mutatis mutandis with the provisions of Article 192 to Article 195 and Article 197.

Article 227-2

If there is change of circumstances which is not predictable then after the constitution of the contract, and if the performance of the original obligation arising therefrom will become obviously unfair, the party may apply to the court for increasing or reducing his payment, or altering the original obligation.

The provision in the preceding paragraph shall apply mutatis mutandis to the obligation not arising from the contract.

Article 228

(Repealed)

第二款 遲延

第 229 條

給付有確定期限者，債務人自期限屆滿時起，負遲延責任。

給付無確定期限者，債務人於債權人得請求給付時，經其催告而未為給付，自受催告時起，負遲延責任。其經債權人起訴而送達訴狀，或依督促程序送達支付命令，或為其他相類之行為者，與催告有同一之效力。

前項催告定有期限者，債務人自期限屆滿時起負遲延責任。

第 230 條

因不可歸責於債務人之事由，致未為給付者，債務人不負遲延責任。

第 231 條

債務人遲延者，債權人得請求其賠償因遲延而生之損害。

前項債務人，在遲延中，對於因不可抗力而生之損害，亦應負責。但債務人證明縱不遲延給付，而仍不免發生損害者，不在此限。

第 232 條

遲延後之給付，於債權人無利益者，債權人得拒絕其給付，並得請求賠償因不履行而生之損害。

第 233 條

遲延之債務，以支付金錢為標的者，債權人得請求依法定利率計算之遲延利息。但約定利率較高者，仍從其約定利率。

對於利息，無須支付遲延利息。

前二項情形，債權人證明有其他損害者，並得請求賠償。

第 234 條

Sub-section 2 Defaults

Article 229

When there is a definite period fixed for the performance of an obligation, the debtor is responsible for the default from the moment when such period expires.

When there is no definite period fixed for the performance of the obligation, and when the creditor may demand the performance, but the debtor failed to perform the same after the creditor has notified him of the demand, the debtor is responsible for the default from the moment when he has been notified. The effect of instituting an action for performance and the service of the complaint, or the service of an order for payment according to the hortatory process, or any other similar act is equivalent to a notice.

If there is a period fixed for the performance in the notice of the preceding paragraph, the debtor is responsible for the default from the moment when such time expires.

Article 230

The debtor is not being responsible for the default if the prestation has not been made by reason of circumstances to which he is not imputed.

Article 231

When the debtor is in default, the creditor is entitled to claim compensation for any injury arising therefrom.

So long as the default continues, the debtor under the preceding paragraph shall also be responsible for any injury arising from circumstances of force majeure, unless he can prove that the injury would have been sustained, even if he had performed in due time.

Article 232

If the performance after the default is of no interests to the creditor, he may refuse the performance and claim compensation for the injury arising from the non-performance.

Article 233

When the object of an obligation which is in default is the payment of money, the creditor may claim interest for the default, which is to be calculated at the statutory rate. But if the agreed rate of interest is higher, this higher rate shall apply.

There is no need to pay interest for the interest of default.

In cases specified in the preceding two paragraphs, if the creditor can prove other injuries sustained, he may claim compensation for the same.

Article 234

債權人對於已提出之給付，拒絕受領或不能受領者，自提出時起，負遲延責任。

第 235 條

債務人非依債務本旨實行提出給付者，不生提出之效力。但債權人預示拒絕受領之意思，或給付兼需債權人之行為者，債務人得以準備給付之事情，通知債權人，以代提出。

第 236 條

給付無確定期限，或債務人於清償期前得為給付者，債權人就一時不能受領之情事，不負遲延責任。但其提出給付，由於債權人之催告，或債務人已於相當期間前預告債權人者，不在此限。

第 237 條

在債權人遲延中，債務人僅就故意或重大過失，負其責任。

第 238 條

在債權人遲延中，債務人無須支付利息。

第 239 條

債務人應返還由標的物所生之孳息或償還其價金者，在債權人遲延中，以已收取之孳息為限，負返還責任。

第 240 條

債權人遲延者，債務人得請求其賠償提出及保管給付物之必要費用。

第 241 條

有交付不動產義務之債務人，於債權人遲延後，得拋棄其占有。

前項拋棄，應預先通知債權人。但不能通知者，不在此限。

If the creditor refuses or fails to accept the performance tendered to him, he is responsible for the default from the moment when the performance has been tendered.

Article 235

If the debtor does not actually tender the performance according to the tenor of the obligation, there will be no effect on this tendering. But if the creditor has previously declared that he will not accept the performance, or if an act of the creditor is necessary for the performance, the debtor may substitute the notice to the creditor announcing that he (the debtor) is ready to perform for the tendering.

Article 236

If there is no definite deadline for the performance, or if the debtor is entitled to perform before the deadline, the creditor is not responsible for the default when he is temporarily prevented from accepting the tendered performance, unless the performance was tendered by reason of the creditor's notice, or unless the debtor has notified the creditor a reasonable time beforehand.

Article 237

During the default of the creditor, the debtor is responsible only for his intentional or gross negligent acts.

Article 238

The debtor is not responsible for interest during the default of the creditor.

Article 239

If the debtor has to return the profits produced by an object or to make reimbursement for them, he is only responsible for the profits which he has actually acquired during the default of the creditor.

Article 240

In case of the default of the creditor, the debtor may claim compensation for the necessary expenses incurred from the tendering as well as from the safekeeping of the object of the prestation.

Article 241

When the debtor is under an obligation to deliver a real property, he may, after the creditor is in default, abandon its possession.

In the case of abandonment under the preceding paragraph, the debtor shall be bound to notify the creditor in advance, unless such notice is impossible.

第三款 保全

第 242 條

債務人怠於行使其權利時，債權人因保全債權，得以自己之名義，行使其權利。但專屬於債務人本身者，不在此限。

第 243 條

前條債權人之權利，非於債務人負遲延責任時，不得行使。但專為保存債務人權利之行為，不在此限。

第 244 條

債務人所為之無償行為，有害及債權者，債權人得聲請法院撤銷之。

債務人所為之有償行為，於行為時明知有損害於債權人之權利者，以受益人於受益時亦知其情事者為限，債權人得聲請法院撤銷之。

債務人之行為非以財產為標的，或僅有害於以給付特定物為標的之債權者，不適用前二項之規定。

債權人依第一項或第二項之規定聲請法院撤銷時，得並聲請命受益人或轉得人回復原狀。但轉得人於轉得時不知有撤銷原因者，不在此限。

第 245 條

前條撤銷權，自債權人知有撤銷原因時起，一年間不行使，或自行為時起，經過十年而消滅。

第四款 契約

第 245-1 條

Sub-section 3 Preservation

Article 242

The creditor may, in order to preserve his prestation, exercise in his the name of himself any right of the debtor which the debtor neglects to exercise, except rights which are exclusively belonged to the debtor.

Article 243

So long as the debtor is not in default, the creditor shall not exercise the right specified in the preceding article, except those rights which are exclusively for the preservation of the rights of the said debtor.

Article 244

If a gratuitous act done by the debtor is likely to be prejudicial to the rights of the creditor, the creditor may apply to the court for the revocation of such act.

If a non-gratuitous act done by the debtor is likely to be prejudicial to the rights of the creditor and the debtor knew of it at the time of doing that act, the creditor may apply to the court for the revocation of such act, provided that the party profited by the act (the beneficiary) also knew of the circumstances on the receipt of the interests.

The provisions of the preceding two paragraphs do not apply to the act done by the debtor, if the object of which is not on the property or is only prejudicial to the prestation of delivering a specific thing.

When the creditor applies to the court for the revocation according to the provision of the first or the second paragraph, he may also apply for ordering the beneficiary or the person who acquires the object afterwards (the afterwards acquiring person) to restore to the status quo ante, except the afterwards acquiring person did not know of the ground for revocation at the time of acquiring.

Article 245

The claim for revocation in the provisions of the preceding article shall be extinguished by prescription if not exercised within one year from the moment when the creditor knew of the ground for revocation, or shall be extinguished after ten years from the date of doing the act.

Sub-section 4 Contracts

Article 245-1

契約未成立時，當事人為準備或商議訂立契約而有左列情形之一者，對於非因過失而信契約能成立致受損害之他方當事人，負賠償責任：

一、就訂約有重要關係之事項，對他方之詢問，惡意隱匿或為不實之說明者。

二、知悉或持有他方之秘密，經他方明示應予保密，而因故意或重大過失洩漏之者。

三、其他顯然違反誠實及信用方法者。

前項損害賠償請求權，因二年間不行使而消滅。

第 246 條

以不能之給付為契約標的者，其契約為無效。但其不能情形可以除去，而當事人訂約時並預期於不能之情形除去後為給付者，其契約仍為有效。

附停止條件或始期之契約，於條件成就或期限屆至前，不能之情形已除去者，其契約為有效。

第 247 條

契約因以不能之給付為標的而無效者，當事人於訂約時知其不能或可得而知者，對於非因過失而信契約為有效致受損害之他方當事人，負賠償責任。

給付一部不能，而契約就其他部分仍為有效者，或依選擇而定之數宗給付中有一宗給付不能者，準用前項之規定。

前二項損害賠償請求權，因二年間不行使而消滅。

第 247-1 條

依照當事人一方預定用於同類契約之條款而訂定之契約，為左列各款之約定，按其情形顯失公平者，該部分約定無效：

一、免除或減輕預定契約條款之當事人之責任者。

二、加重他方當事人之責任者。

Even though the contract is not constituted, one of the parties is responsible for the injury caused to the other party who without his own negligence believed in the constitution of the contract when he, in order to prepare or negotiate for the contract, has done either of the following:

(1) Hidden in bad faith or dishonestly explained the gravely relevant matter of the contract when the other party inquired.

(2) Intentionally or gross negligently spilt out the other party's secret known or held by himself which the other party has explicitly expressed to be kept in secret.

(3) Any other matter obviously against good faith.

The claim for the injury in the preceding paragraph shall be extinguished by prescription if not exercised within two years.

Article 246

If the prestation of a contract is impossible, it is void. However, if the impossibility can be removed and if the parties, at the time when the contract was constituted, intended to have it performed after the removal of the impossibility, the contract is still valid.

If the contract is subject to a suspensive condition or to a time of commencement, and if the impossibility has been removed prior to the fulfillment of the condition or the arrival of the time, the contract is valid.

Article 247

When a contract is void on account of the impossibility of the performance, the party who at the time of constituting the contract knew or might know the impossibility is responsible for the injury caused to the other party who, without his own negligence, believed in the validity of the contract.

The provision of the preceding paragraph shall be mutatis mutandis applied if the prestation is partially impossible and the contract is valid in respect to the possible part, or if one of the several prestations subject to a choice is impossible.

The claims for the injury in the preceding two paragraphs shall be extinguished by prescription if not exercised within two years.

Article 247-1

If a contract has been constituted according to the provisions which were prepared by one of the parties for contracts of the same kind, the agreements which include the following agreements and are obviously unfair under that circumstance are void.

(1) To release or to reduce the responsibility of the party who prepared the entries of the contract.

三、使他方當事人拋棄權利或限制其行使權利者。

四、其他於他方當事人有重大不利益者。

第 248 條

訂約當事人之一方，由他方受有定金時，推定其契約成立。

第 249 條

定金，除當事人另有訂定外，適用左列之規定：

一、契約履行時，定金應返還或作為給付之一部。

二、契約因可歸責於付定金當事人之事由，致不能履行時，定金不得請求返還。

三、契約因可歸責於受定金當事人之事由，致不能履行時，該當事人應加倍返還其所受之定金。

四、契約因不可歸責於雙方當事人之事由，致不能履行時，定金應返還之。

第 250 條

當事人得約定債務人於債務不履行時，應支付違約金。

違約金，除當事人另有訂定外，視為因不履行而生損害之賠償總額。其約定如債務人不於適當時期或不依適當方法履行債務時，即須支付違約金者，債權人除得請求履行債務外，違約金視為因不於適當時期或不依適當方法履行債務所生損害之賠償總額。

第 251 條

債務已為一部履行者，法院得比照債權人因一部履行所受之利益，減少違約金。

第 252 條

約定之違約金額過高者，法院得減至相當之數額。

第 253 條

前三條之規定，於約定違約時應為金錢以外之給付者準用之。

(2) To increase the responsibility of the other party.

(3) To make the other party waive his right or to restrict the exercise of his right.

(4) Other matters gravely disadvantageous to the other party.

Article 248

When one of the parties to a contract receives earnest money from the other, the contract is presumed to be constituted.

Article 249

Unless otherwise agreed upon by the parties, the following rules apply to the earnest money:

(1) When the contract has been performed, the earnest money shall be returned or treated as one part of the payment.

(2) If the contract cannot be performed owing to a circumstance to which the party who gave the earnest money is imputed, such party shall not claim for the return of the earnest money.

(3) If the contract cannot be performed owing to a circumstance to which the party who received the earnest money is imputed, such party shall return double amounts of earnest money.

(4) If the contract cannot be performed owing to a circumstance to which neither of the parties is imputed, the earnest money shall be returned.

Article 250

The parties may agree on a penalty to be paid by the debtor in case the debtor does not perform the obligation.

Unless otherwise agreed upon by the parties, the penalty shall be deemed to be the total amount of damages due to the non-performance. If it is agreed that the penalty shall be paid when the debtor does not perform the obligation at the agreed time or in the agreed way, this penalty shall be deemed to be the total amount of damages due to this non-performance, besides the creditor may claim for the performance.

Article 251

If the obligation has been partially performed, the court may reduce the penalty proportionately as the interests received by the creditor due to the partial performance.

Article 252

If the agreed penalty is disproportionately high, the court may reduce it to a reasonable amount.

Article 253

The provisions of the preceding three articles shall apply mutatis mutandis to the agreed non-pecuniary payment for the breach of a contract.

第 254 條

契約當事人之一方遲延給付者，他方當事人得定相當期限催告其履行，如於期限內不履行時，得解除其契約。

第 255 條

依契約之性質或當事人之意思表示，非於一定時期為給付不能達其契約之目的，而契約當事人之一方不按照時期給付者，他方當事人得不為前條之催告，解除其契約。

第 256 條

債權人於有第二百二十六條之情形時，得解除其契約。

第 257 條

解除權之行使，未定有期間者，他方當事人得定相當期限，催告解除權人於期限內確答是否解除；如逾期未受解除之通知，解除權即消滅。

第 258 條

解除權之行使，應向他方當事人以意思表示為之。
契約當事人之一方有數人者，前項意思表示，應由其全體或向其全體為之。
解除契約之意思表示，不得撤銷。

第 259 條

契約解除時，當事人雙方回復原狀之義務，除法律另有規定或契約另有訂定外，依左列之規定：
一、由他方所受領之給付物，應返還之。
二、受領之給付為金錢者，應附加自受領時起之利息償還之。
三、受領之給付為勞務或為物之使用者，應照受領時之價額，以金錢償還之。
四、受領之給付物生有孳息者，應返還之。

Article 254

When a party to a contract is in default, the other party may fix a reasonable period and notify him to perform within that period. If the party in default does not perform within that period, the other party may rescind the contract.

Article 255

If according to the nature of the contract or the expression of intent of the parties, the purpose of the contract can not be accomplished if not performed within the fixed period, and if one of the parties does not perform the contract within that period, the other party may rescind the contract without giving the notice specified in the preceding article.

Article 256

In cases provided by Article 226, the creditor may rescind the contract.

Article 257

If there is no deadline for the exercise of the right of rescission, the other party may fix a reasonable one and notify the party having the right of rescission to make a definite reply within such deadline whether he will rescind the contract or not. If the notice of rescission is not received before such deadline, the right of rescission is extinguished.

Article 258

The right of rescission shall be exercised with the expression of intent to the other party.
If there are several persons on either side of the contract, the expression of intent specified in the preceding paragraph shall be made by all of them or to all of them.
The expression of intent to rescind a contract shall not be revoked.

Article 259

Unless otherwise provided by the act or by the contract, each party shall, in case of rescission, restore the other party to his status quo ante according to the following rules:
(1) Each party shall return the prestation received to the other party.
(2) If the prestation received consisted of money, interest calculated from the time of receipt shall be added.
(3) If the prestation received consisted of service or of the use of a thing, the value of such service or use at the time of receipt shall be reimbursed in money.
(4) If a thing to be returned has produced profits, such profits shall be returned.

五、就返還之物，已支出必要或有益之費用，得於他方受返還時所得利益之限度內，請求其返還。

六、應返還之物有毀損、滅失或因其他事由，致不能返還者，應償還其價額。

第 260 條

解除權之行使，不妨礙損害賠償之請求。

第 261 條

當事人因契約解除而生之相互義務，準用第二百六十四條至第二百六十七條之規定。

第 262 條

有解除權人，因可歸責於自己之事由，致其所受領之給付物有毀損、滅失或其他情形不能返還者，解除權消滅；因加工或改造，將所受領之給付物變其種類者亦同。

第 263 條

第二百五十八條及第二百六十條之規定，於當事人依法律之規定終止契約者準用之。

第 264 條

因契約互負債務者，於他方當事人未為對待給付前，得拒絕自己之給付。但自己有先為給付之義務者，不在此限。

他方當事人已為部分之給付時，依其情形，如拒絕自己之給付有違背誠實及信用方法者，不得拒絕自己之給付。

第 265 條

當事人之一方，應向他方先為給付者，如他方之財產，於訂約後顯形減少，有難為對待給付之虞時，如他方未為對待給付或提出擔保前，得拒絕自己之給付。

第 266 條

(5) If necessary or beneficial expenses of the thing to be returned have been paid, such expenses may be claimed for to the extent to which the other party is benefited at the time of return.

(6) If a thing to be returned has been damaged or destroyed or cannot be returned owing to any other cause, its value shall be reimbursed.

Article 260

The exercise of the right of rescission does not prejudice to the claim for compensation.

Article 261

The provisions of Articles 264 to 267 shall mutatis mutandis apply to the mutual obligations of the parties resulting from the rescission of the contract.

Article 262

When the person entitled to the right of rescission is imputed to the damage or destruction of the thing received or any other circumstance which causes the return impossible, his right of rescission is extinguished. The same rule shall be applied when the kind of the thing received has been altered by process or remodeling.

Article 263

The provisions of Articles 258 and 260 shall be mutatis mutandis applied when the parties terminate the contract in accordance with the provisions of the act.

Article 264

A party to a mutual contract may refuse to perform his part until the counter-prestation has been performed by the other party, except he is bound to perform first.

When one party has partially performed his part, the other party shall not refuse his counter-prestation if circumstances are such that a refusal to perform would be against the manners of good faith.

Article 265

A person who is bound to perform his part first may, if after the constitution of the contract the property of the other party have obviously decreased whereby the counter-prestation might become difficult to be performed, refuse to perform his part, until the other party has performed his part or furnished security for such performance.

Article 266

因不可歸責於雙方當事人之事由，致一方之給付全部不能者，他方免為對待給付之義務；如僅一部不能者，應按其比例減少對待給付。

前項情形，已為全部或一部之對待給付者，得依關於不當得利之規定，請求返還。

第 267 條

當事人之一方因可歸責於他方之事由，致不能給付者，得請求對待給付。但其因免給付義務所得之利益或應得之利益，均應由其所得請求之對待給付中扣除之。

第 268 條

契約當事人之一方，約定由第三人對於他方為給付者，於第三人為給付時，應負損害賠償責任。

第 269 條

以契約訂定向第三人為給付者，要約人得請求債務人向第三人為給付，其第三人對於債務人，亦有直接請求給付之權。

第三人對於前項契約，未表示享受其利益之意思前，當事人得變更其契約或撤銷之。

第三人對於當事人之一方表示不欲享受其契約之利益者，視為自始未取得其權利。

第 270 條

前條債務人，得以由契約所生之一切抗辯，對抗受益之第三人。

第四節 多數債務人及債權人

第 271 條

數人負同一債務或有同一債權，而其給付可分者，除法律另有規定或契約另有訂定外，應各平均分擔或分受之；其給付本不可分而變為可分者亦同。

If none of the parties is imputed to the impossibility of one party's performance, the other party shall be released from his obligation to perform the counter-prestation. If the impossibility is only partial, the counter-prestation shall be reduced proportionately.

In the case provided in the preceding paragraph, if the counter-prestation has been wholly or partially performed, it may be claimed for the reimbursement in accordance with the provisions concerning Unjust Enrichment.

Article 267

If one of the parties is imputed to the impossibility of the other party's performance, the later may claim for the counter-prestation, but the interests saved or ought to be saved arising from the release of the performance shall be deducted from the counter-prestation claimed.

Article 268

One of the parties to a contract who has undertaken that an obligation shall be performed by a third party shall be responsible for the injury if the third party does not perform the obligation.

Article 269

When it is provided in a contract that an obligation shall be performed to a third party, the offeror may demand the debtor to perform the obligation to the third party, and such third party also has the right to demand performance direct from the debtor. So long as the third party has not expressed his intent to take advantage of the contract specified in the preceding paragraph, the parties may modify the contract or revoke it.

If the third party expresses to either of the parties his intent not to take advantage of the contract, he is deemed to never have any right under the contract.

Article 270

The debtor specified in the preceding article may take all the valid defenses arising out of the contract against the beneficial third party.

Section 4 - Plurality Of Creditors And Debtors

Article 271

When several persons undertake the same obligation, and if the prestation is divisible, each of them shall be responsible for or be entitled to the prestation equally, unless otherwise provided by the act or by the contract. The same rule shall be applied when a prestation is converted from an indivisible one to a

divisible one.

第 272 條

數人負同一債務，明示對於債權人各負全部給付之責任者，為連帶債務。

無前項之明示時，連帶債務之成立，以法律有規定者為限。

第 273 條

連帶債務之債權人，得對於債務人中之一人或數人或其全體，同時或先後請求全部或一部之給付。

連帶債務未全部履行前，全體債務人仍負連帶責任。

第 274 條

因連帶債務人中之一人為清償、代物清償、提存、抵銷或混同而債務消滅者，他債務人亦同免其責任。

第 275 條

連帶債務人中之一人受確定判決，而其判決非基於該債務人之個人關係者，為他債務人之利益，亦生效力。

第 276 條

債權人向連帶債務人中之一人免除債務，而無消滅全部債務之意思表示者，除該債務人應分擔之部分外，他債務人仍不免其責任。

前項規定，於連帶債務人中之一人消滅時效已完成者準用之。

第 277 條

連帶債務人中之一人，對於債權人有債權者，他債務人以該債務人應分擔之部分為限，得主張抵銷。

第 278 條

債權人對於連帶債務人中之一人有遲延時，為他債務人之利益，亦生效力。

第 279 條

Article 272

When there are several persons undertaking the same obligation and expressing that each of them is bound to the creditor for the whole of the prestation, this obligation is a joint-obligation.

If there is no such expression specified in the preceding paragraph, a joint-obligation is constituted only in the cases provided by the act.

Article 273

The creditor of a joint-obligation is entitled to demand one or several or all of the debtors simultaneously or successively to tender total or partial performance.

Before the complete performance of the obligation, all of the debtors are jointly bound to tender the performance.

Article 274

If any one of the joint-debtors has extinguished the obligation by performance, prestation in lieu of performance, lodgment, offset or merger, the other debtors are also released from the obligation.

Article 275

If there is a non-appealable judgment rendered in favor of one of the joint-debtors and if it is not based on such debtor's personal affairs, this judgment operates in favor of all the other debtors.

Article 276

When the creditor grants a release to one of the joint-debtors without the intent to extinguish the whole obligation, except the amount of the share which is incumbent on such debtor, the other debtors are still not released from the obligation.

When the extinctive prescription has been completed as regards one of the joint-debtors, the provisions of the preceding paragraph shall be mutatis mutandis applied.

Article 277

If there is one of the joint-debtors acquiring a claim against the creditor, to the extent of the amount of the share which is incumbent on such debtor, the other debtors may claim to offset.

Article 278

When there is default of the creditor towards one of the joint-debtors, the effect of the default also operates in favor of all the other debtors.

Article 279

就連帶債務人中之一人所生之事項，除前五條規定或契約另有訂定者外，其利益或不利益，對他債務人不生效力。

第 280 條

連帶債務人相互間，除法律另有規定或契約另有訂定外，應平均分擔義務。但因債務人中之一人應單獨負責之事由所致之損害及支付之費用，由該債務人負擔。

第 281 條

連帶債務人中之一人，因清償、代物清償、提存、抵銷或混同，致他債務人同免責任者，得向他債務人請求償還各自分擔之部分，並自免責時起之利息。

前項情形，求償權人於求償範圍內，承受債權人之權利。但不得有害於債權人之利益。

第 282 條

連帶債務人中之一人，不能償還其分擔額者，其不能償還之部分，由求償權人與他債務人按照比例分擔之。但其不能償還，係由求償權人之過失所致者，不得對於他債務人請求其分擔。

前項情形，他債務人中之一人應分擔之部分已免責者，仍應依前項比例分擔之規定，負其責任。

第 283 條

數人依法律或法律行為，有同一債權，而各得向債務人為全部給付之請求者，為連帶債權。

第 284 條

連帶債權之債務人，得向債權人中之一人，為全部之給付。

第 285 條

Unless otherwise provided by the provisions of the preceding five articles or the contract, any consequence of the affairs on one of the joint-debtors, whether it is beneficial or not, does not operate on the other debtors.

Article 280

Unless otherwise provided by the act or the contract, all of the joint-debtors shall be burdened for the obligation equally. Except, the damages and the costs resulting from facts for which one of the joint-debtors shall be personally responsible shall be borne by such debtor.

Article 281

If one of the joint-debtors has caused the other joint-debtors to be released from the obligation by virtue of his performance, prestation in lieu of performance, lodgment, offset or merger, he is entitled to demand from the other debtors the reimbursement of their respective shares in the prestation, plus interest from the date of release.

In the case specified in the preceding paragraph, the debtor entitled to claim the reimbursement is subrogated to the rights of the creditor to the amount of the reimbursement which the said debtor is entitled to demand, but such debtor shall not exercise them to the detriment of the creditor.

Article 282

If one of the joint-debtors cannot reimburse his share in the prestation, the deficiency shall be borne pro rata by the other debtors, including the debtor entitled to claim the reimbursement, but if the impossibility to reimburse is due to the negligence of the debtor entitled to claim, he shall not claim the other debtors to bear their shares.

In the case of the preceding paragraph, if one of those other debtors has been released from his own share in the obligation, he shall still be, however, in accordance with the provisions of the preceding paragraph, responsible for his share in the deficiency.

Article 283

When several persons entitled by the act or by the juridical act to a claim of the same obligation that each of them may demand the whole of the prestation from the debtor, this claim is a joint-claim.

Article 284

The debtor to a joint-claim may at his option perform wholly in favor of any of the joint-creditors.

Article 285

連帶債權人中之一人為給付之請求者，為他債權人之利益，亦生效力。

If one of the joint-creditors has made the demand, it operates in favor of all the other creditors.

第 286 條

因連帶債權人中之一人，已受領清償、代物清償、或經提存、抵銷、混同而債權消滅者，他債權人之權利，亦同消滅。

Article 286

If the obligation is extinguished on account of any one of the creditors having been satisfied by performance, prestation in lieu of performance, lodgment, offset or merger, the rights of the other creditors are also extinguished.

第 287 條

連帶債權人中之一人，受有利益之確定判決者，為他債權人之利益，亦生效力。

Article 287

If there is a non-appealable judgment rendered in favor of one of the joint-creditors, it also operates in favor of all the other creditors.

連帶債權人中之一人，受不利益之確定判決者，如其判決非基於該債權人之個人關係時，對於他債權人，亦生效力。

If there is a non-appealable judgment rendered against one of the joint-creditors and if it is not based on such creditors' personal affairs, it also operates against all the other creditors.

第 288 條

連帶債權人中之一人，向債務人免除債務者，除該債權人應享有之部分外，他債權人之權利，仍不消滅。

Article 288

If one of the joint-creditors has granted a release to the debtor, except to the extent of the share to which the creditor granting the release is entitled, the rights of the other creditors are not extinguished.

前項規定，於連帶債權人中之一人消滅時效已完成者準用之。

When the extinctive prescription has been completed against one of the joint-creditors, the provisions of the preceding paragraph shall be mutatis mutandis applied.

第 289 條

連帶債權人中之一人有遲延者，他債權人亦負其責任。

Article 289

If there is one of the joint-creditors in default, the other creditors are also responsible for it.

第 290 條

就連帶債權人中之一人所生之事項，除前五條規定或契約另有訂定者外，其利益或不利益，對他債權人不生效力。

Article 290

Unless otherwise provided by the preceding five articles or the contract, any consequence of the affairs on one of the joint-creditors, whether it is beneficial or not, does not operate on the other creditors.

第 291 條

連帶債權人相互間，除法律另有規定或契約另有訂定外，應平均分受其利益。

Article 291

Unless otherwise provided by the act or the contract, all of the joint-creditors shall be benefited by the claim equally.

第 292 條

數人負同一債務，而其給付不可分者，準用關於連帶債務之規定。

Article 292

When several persons undertake the same obligation, and the prestation is indivisible, the provisions concerning the joint-obligation shall be mutatis mutandis applied.

第 293 條

Article 293

數人有同一債權，而其給付不可分者，各債權人僅得請求向債權人全體為給付，債務人亦僅得向債權人全體為給付。

除前項規定外，債權人中之一人與債務人間所生之事項，其利益或不利益，對他債權人不生效力。

債權人相互間，準用第二百九十一條之規定。

If there are several persons entitled to a claim of the same obligation, and if the prestation is indivisible, each creditor may only demand the prestation to all of the creditors; and the debtor shall only tender the performance to all of the creditors.

Unless otherwise provided by the preceding paragraph, the affairs between one of the creditors and the debtor, whether it is beneficial or not, does not operate on the other creditors.

The provisions of Article 291 shall apply mutatis mutandis to the affairs between the creditors

第五節 債之移轉

Section 5 - Transfer Of Obligations

第 294 條

債權人得將債權讓與於第三人。但左列債權，不在此限：

- 一、依債權之性質，不得讓與者。
- 二、依當事人之特約，不得讓與者。
- 三、債權禁止扣押者。

前項第二款不得讓與之特約，不得以之對抗善意第三人。

Article 294

A creditor may transfer a claim of an obligation to a third party, unless;

- (1) The nature of the claim does not permit the transfer; or
- (2) The parties have agreed that the claim shall not be transferred; or
- (3) The claim is not subject to judicial attachment.

The agreement mentioned in the second section of the preceding paragraph shall not be a valid defense against any bona fide third party.

第 295 條

讓與債權時，該債權之擔保及其他從屬之權利，隨同移轉於受讓人。但與讓與人有不可分離之關係者，不在此限。

未支付之利息，推定其隨同原本移轉於受讓人。

Article 295

When there is a claim being transferred, all the securities of the claim and other accessory rights are transferred together, except those rights which cannot be separated from the transferor.

Interests in arrears are presumed to be transferred, together with the capital.

第 296 條

讓與人應將證明債權之文件，交付受讓人，並應告以關於主張該債權所必要之一切情形。

Article 296

The transferor is bound to deliver to the transferee all documents which serve as evidence of the claim, and to give him all information necessary for the assertion of such claim.

第 297 條

債權之讓與，非經讓與人或受讓人通知債務人，對於債務人不生效力。但法律另有規定者，不在此限。

受讓人將讓與人所立之讓與字據提示於債務人者，與通知有同一之效力。

Article 297

The transfer of a claim will not be effective as against the debtor until the debtor has been notified of it by the transferor or by the transferee, unless otherwise provided by the act.

The effect of tendering by the transferee to the debtor the deed of transfer executed by the transferor is equivalent to the effect of notice.

第 298 條

讓與人己將債權之讓與通知債務人者，縱未為讓與或讓與無效，債

Article 298

When the transferor has notified the debtor that he has transferred the claim, the debtor may take all the defenses which

務人仍得以其對抗受讓人之事由，對抗讓與人。
前項通知，非經受讓人之同意，不得撤銷。

第 299 條

債務人於受通知時，所得對抗讓與人之事由，皆得以之對抗受讓人。債務人於受通知時，對於讓與人有債權者，如其債權之清償期，先於所讓與之債權或同時屆至者，債務人得對於受讓人主張抵銷。

第 300 條

第三人與債權人訂立契約承擔債務人之債務者，其債務於契約成立時，移轉於該第三人。

第 301 條

第三人與債務人訂立契約承擔其債務者，非經債權人承認，對於債權人不生效力。

第 302 條

前條債務人或承擔人，得定相當期限，催告債權人於該期限內確答是否承認，如逾期不為確答者，視為拒絕承認。

債權人拒絕承認時，債務人或承擔人得撤銷其承擔之契約。

第 303 條

債務人因其法律關係所得對抗債權人之事由，承擔人亦得以之對抗債權人。但不得以屬於債務人之債權為抵銷。

承擔人因其承擔債務之法律關係所得對抗債務人之事由，不得以之對抗債權人。

第 304 條

從屬於債權之權利，不因債務之承擔而妨礙其存在。但與債務人有不可分離之關係者，不在此限。
由第三人就債權所為之擔保，除該

he has against the transferee as the valid defenses against the transferor, even though the transfer is not executed or is invalid. The notice under the preceding paragraph shall not be revoked without the consent of the transferee.

Article 299

At the time of the debtor being notified, all of the valid defenses he has against the transferor may be taken against the transferee. At the time of the debtor being notified, if the debtor had the claim against the transferor, and if such claim matures before or at the same of the claim transferred does, he may claim for offset against the transferee.

Article 300

When a third party agrees with the creditor to assume the obligation of the debtor, the obligation is deemed to be transferred to the third party at the time of the constitution of the contract.

Article 301

When a third party agrees with the debtor to assume the obligation of the debtor, it is not effective as against the creditor until the creditor has acknowledged.

Article 302

The debtor or the person assuming the debt under the preceding article may fix a reasonable deadline and notify the creditor to reply definitely before such deadline whether he acknowledges the transfer or not. If the creditor does not give a definite reply before such period, he is deemed to have refused to acknowledge the said transfer.

If the creditor refuses to acknowledge the transfer, the debtor or the person assuming the debt may revoke the contract concerning the assumption of the debt.

Article 303

The person assuming the debt may take the debtor's valid defenses against the creditor on account of their legal relationship as his valid defenses against the creditor, unless he shall not offset a claim belonging to the debtor.

The person assuming the debt shall not take his valid defenses against the debtor on account of the legal relationship arising from the assumption of the debt against the creditor.

Article 304

The assumption of a debt does not affect the existence of the accessory rights of the claim, unless the accessory rights shall not be separated from the debtor.

The securities given by a third party for the performance of the

第三人對於債務之承擔已為承認外，因債務之承擔而消滅。

obligation are extinguished on account of the assumption of the debt, unless such third party has acknowledged the assumption.

第 305 條

就他人之財產或營業，概括承受其資產及負債者，因對於債權人為承受之通知或公告，而生承擔債務之效力。

前項情形，債務人關於到期之債權，自通知或公告時起，未到期之債權，自到期時起，二年以內，與承擔人連帶負其責任。

Article 305

In case of generally assuming all the assets and liabilities from the property or enterprise of a person, the assumption of the debts becomes effective from the moment the transfer has been published or has been notified to the creditor.

In the case specified in the preceding paragraph, the original debtor remains jointly liable with the person assuming the debt for a period of two years from the date of notice or publication of the transfer for the obligations due, or from the date of maturity for the obligations which are not yet due.

第 306 條

營業與他營業合併，而互相承受其資產及負債者，與前條之概括承受同，其合併之新營業，對於各營業之債務，負其責任。

Article 306

When one enterprise is amalgamated with other enterprises and they are assumed each other's assets and liabilities, it is deemed as the general assumption in the preceding article. The new enterprise after the amalgamation shall be responsible for the obligation of each enterprise before the amalgamation.

第六節 債之消滅

Section 6 - Extinction Of Obligations

第一款 通則

Sub-section 1 General Provision

第 307 條

債之關係消滅者，其債權之擔保及其他從屬之權利亦同時消滅。

Article 307

When the obligations are extinguished, the securities furnished for its performance, and other accessory rights are extinguished simultaneously.

第 308 條

債之全部消滅者，債務人得請求返還或塗銷負債之字據，其僅一部消滅或負債字據上載有債權人他項權利者，債務人得請求將消滅事由，記入字據。

Article 308

Once an obligation has been wholly extinguished, the debtor may require the creditor to return or cancel the deed in which the obligation is embodied. If the obligation has been only partially extinguished, or if the deed entitles the creditor to exercise other rights, the debtor may demand that particulars of the extinction to be endorsed into the deed.

負債字據，如債權人主張有不能返還或有不能記入之事情者，債務人得請求給與債務消滅之公認證書。

If the creditor alleges that he cannot return or endorse the deed, the debtor may require from the creditor a publicly certified acknowledgment showing that the obligation has been extinguished.

第二款 清償

Sub-section 2 Performance

第 309 條

依債務本旨，向債權人或其他有受領權人為清償，經其受領者，債之關係消滅。

Article 309

When performance has been made to the creditor or to his qualified representative in conformity with the tenor of the obligation, and has been accepted, the obligation is

持有債權人簽名之收據者，視為有受領權人。但債務人已知或因過失而不知其無權受領者，不在此限。

第 310 條

向第三人為清償，經其受領者，其效力依左列各款之規定：

一、經債權人承認或受領人於受領後取得其債權者，有清償之效力。

二、受領人係債權之準占有人者，以債務人不知其非債權人者為限，有清償之效力。

三、除前二款情形外，於債權人因受利益之限度內，有清償之效力。

第 311 條

債之清償，得由第三人為之。但當事人另有訂定或依債之性質不得由第三人清償者，不在此限。

第三人之清償，債務人有異議時，債權人得拒絕其清償。但第三人就債之履行有利害關係者，債權人不得拒絕。

第 312 條

就債之履行有利害關係之第三人為清償者，於其清償之限度內承受債權人之權利，但不得有害於債權人之利益。

第 313 條

第二百九十七條及第二百九十九條之規定，於前條之承受權利準用之。

第 314 條

清償地，除法律另有規定或契約另有訂定，或另有習慣，或得依債之性質或其他情形決定者外，應依左列各款之規定：

一、以給付特定物為標的者，於訂約時，其物所在地為之。

二、其他之債，於債權人之住所地

extinguished.

The bearer of a receipt signed by the creditor is deemed to be the qualified representative of the creditor, except the debtor knew or was negligent of not knowing that the bearer was not qualified to receive the performance.

Article 310

If the performance is tendered to a third party and has been accepted by him, the following rules shall apply:

(1) Performance effects if the creditor has acknowledged it or if the third party subsequently has acquired the claim of the obligation;

(2) Performance effects, if the performance had been accepted by the quasi possessor of the claim, and the creditor did not know that he is not a creditor;

(3) In cases other than those specified in the preceding two sections, the performance effects only to the extent which the creditor has been benefited thereby.

Article 311

An obligation may be performed by a third party unless otherwise agreed by the parties or accorded with the nature of the obligation.

If the debtor objects to the obligation being performed by a third party, the creditor may refuse such performance; but if the third party has the interest of conflicts on the performance of the obligation, the creditor shall not refuse.

Article 312

If a third party who has interest on the performance of the obligation has performed the obligation, the third party is subrogated to the rights of the creditor to the amount of the performance, but such third party shall not exercise them to the detriment of the creditor.

Article 313

The provisions of Articles 297 and 299 shall apply mutatis mutandis to the subrogation specified in the preceding article.

Article 314

Unless otherwise provided by the act or by the contract or by the custom, or unless otherwise decided by the nature of the obligation or other situations, the place of performance shall be decided as follows:

(1) If the object of the obligation is to deliver a specific thing, performance shall be tendered at the place where such thing was at the time when the contract was constituted.

(2) The other obligations shall be performed at the place of the

為之。

creditor's domicile.

第 315 條

清償期，除法律另有規定或契約另有訂定，或得依債之性質或其他情形決定者外，債權人得隨時請求清償，債務人亦得隨時為清償。

Article 315

Unless otherwise provided by the act or by the contract, or unless otherwise decided by the nature of the obligation or other situations, the creditor may demand the performance at any time and the debtor may also perform at any time.

第 316 條

定有清償期者，債權人不得於期前請求清償，如無反對之意思表示時，債務人得於期前為清償。

Article 316

If there is a deadline for performance, the creditor may not demand the performance before the deadline; but if there is no contrary expression, the debtor may perform before the deadline.

第 317 條

清償債務之費用，除法律另有規定或契約另有訂定外，由債務人負擔。但因債權人變更住所或其他行為，致增加清償費用者，其增加之費用，由債權人負擔。

Article 317

Unless otherwise provided by the act or by the contract, the costs of performance shall be borne by the debtor. But if the creditor has increased the costs of performance by changing his domicile or by any other acts, the additional costs shall be borne by the creditor.

第 318 條

債務人無為一部清償之權利。但法院得斟酌債務人之境況，許其於無甚害於債權人利益之相當期限內，分期給付，或緩期清償。

Article 318

A debtor is not entitled to perform in part. However, the court may, taking the condition of the debtor into consideration, allow him to perform by installment or to delay his performance in such reasonable time as may not greatly prejudice to the interests of the creditor.

法院許為分期給付者，債務人一期遲延給付時，債權人得請求全部清償。

When the court allows the debtor to perform by installment, the creditor may claim for the whole prestation if the debtor has delayed any installment.

給付不可分者，法院得比照第一項但書之規定，許其緩期清償。

In case the prestation is indivisible, the court may, subject to the provision of the first paragraph, allow the debtor to delay his performance.

第 319 條

債權人受領他種給付以代原定之給付者，其債之關係消滅。

Article 319

If the creditor has accepted other prestation in lieu of the prestation originally agreed, the obligation is extinguished.

第 320 條

因清償債務而對於債權人負擔新債務者，除當事人另有意思表示外，若新債務不履行時，其舊債務仍不消滅。

Article 320

When the debtor, for the purpose of satisfying his creditor, has assumed a new obligation towards him, the original obligation will not be extinguished, if the new obligation is not performed, unless otherwise agreed by a contrary expression of the parties.

第 321 條

對於一人負擔數宗債務而其給付之種類相同者，如清償人所提出之給付，不足清償全部債額時，由清償人於清償時，指定其應抵充之債

Article 321

If a debtor is bound to the same creditor to perform several obligations of the same kind, and if the prestation performed is insufficient for discharging all the obligations, it is the person tendering the performance to specify the obligation to be

務。

discharged at the time of the prestation.

第 322 條

清償人不為前條之指定者，依左列之規定，定其應抵充之債務：

一、債務已屆清償期者，儘先抵充。

二、債務均已屆清償期或均未屆清償期者，以債務之擔保最少者，儘先抵充；擔保相等者，以債務人因清償而獲益最多者，儘先抵充；獲益相等者，以先到期之債務，儘先抵充。

三、獲益及清償期均相等者，各按比例，抵充其一部。

Article 322

If the person tendering the performance has not made the specification provided in the preceding article, the obligation to be discharged shall be specified as follows:

(1) If a obligation has been due, it shall be discharged first;

(2) If all of the obligations are due or if none is due, the obligation which affords the creditor the least security shall be discharged first; if all the obligations are equally secured, the obligation which will be the most favorable to the debtor if performed shall be discharged first; if all the obligations will be equally favorable the debtor if performed, a obligation which matures first shall be discharged first;

(3) If all the obligations are equally favorable to the debtor and all mature at the same time if performed, the obligations shall be discharged proportionately.

第 323 條

清償人所提出之給付，應先抵充費用，次充利息，次充原本；其依前二條之規定抵充債務者亦同。

Article 323

The prestation tendered by the person tendering the performance shall be taken to discharge the expenses first, then the interest and finally the capital. The same rule shall be applied when an obligation is performed according to the provisions of the preceding two articles.

第 324 條

清償人對於受領清償人，得請求給與受領證書。

Article 324

The person tendering the performance may demand from the person accepting the performance the delivery of a written receipt.

第 325 條

關於利息或其他定期給付，如債權人給與受領一期給付之證書，未為他期之保留者，推定其以前各期之給付已為清償。

如債權人給與受領原本之證書者，推定其利息亦已受領。

債權證書已返還者，推定其債之關係消滅。

Article 325

In case of payment of interest or other periodical performance, if the creditor gives a receipt for one term without any reservation for the other terms, it is presumed that he has received performance for the previous terms.

If the creditor gives a receipt for the capital, it is presumed that he has received the interest.

If the deed to the obligation has been returned, it is presumed that the obligation has been extinguished.

第三款 提存

Sub-section 3 Lodgments

第 326 條

債權人受領遲延，或不能確知孰為債權人而難為給付者，清償人得將其給付物，為債權人提存之。

Article 326

When the creditor is in default, or when it is impossible to know exactly who the creditor is so that performance becomes difficult, the person tendering the performance may lodge the prestation for the creditor.

第 327 條

提存應於清償地之法院提存所為之。

Article 327

Lodgment shall be made in the lodgment office of the courthouse at the place of performance.

第 328 條

提存後，給付物毀損、滅失之危險，由債權人負擔，債務人亦無須支付利息，或賠償其孳息未收取之損害。

Article 328

After the lodgment, the danger of the damage or destruction of the object of the prestation is borne by the creditor, and the debtor is not bound to pay the interest or to compensate for failure to acquire the profits.

第 329 條

債權人得隨時受取提存物，如債務人之清償，係對債權人之給付而為之者，在債權人未為對待給付或提出相當擔保前，得阻止其受取提存物。

Article 329

The creditor is entitled to take delivery of the thing lodged at any time. If, however, the debtor is bound to perform only after a counter-prestation has been performed by the creditor, the debtor may prevent the delivery of the thing lodged, until the counter-prestation has been performed or proper security has been furnished.

第 330 條

債權人關於提存物之權利，應於提存後十年內行使之，逾期其提存物歸屬國庫。

Article 330

The right of the creditor to the thing lodged shall be exercised within ten years from the day of lodgment; and if it is not exercised within such period, the ownership of the thing lodged is assigned to the Treasury.

第 331 條

給付物不適於提存，或有毀損滅失之虞，或提存需費過鉅者，清償人得聲請清償地之法院拍賣，而提存其價金。

Article 331

If the object of the prestation is not suitable for lodgment, or if it might be damaged or destroyed, or if its lodgment would cost disproportionate expenses, the person tendering the performance may apply to the court of the place of performance to have it sold by auction and to lodge the proceeds of the sale.

第 332 條

前條給付物有市價者，該管法院得許可清償人照市價出賣，而提存其價金。

Article 332

When the object of the prestation mentioned in the preceding article has a current market value, the court may allow the person tendering the performance to sell it at such market value and to lodge the proceeds of the sale.

第 333 條

提存拍賣及出賣之費用，由債權人負擔。

Article 333

The costs of lodging the proceeds of the auction or the sale are borne by the creditor.

第四款 抵銷

Sub-section 4 Offset

第 334 條

二人互負債務，而其給付種類相同，並均屆清償期者，各得以其債務，與他方之債務，互為抵銷。但依債之性質不能抵銷或依當事人

Article 334

If two persons are bound by obligations for each other, and the objects of which are of the same kind and which are both due, each party may take his own obligation to offset the other party's, except the nature of the obligations or the agreement of

之特約不得抵銷者，不在此限。
前項特約，不得對抗善意第三人。

the parties does not permit of it.

The agreement provided in the preceding paragraph shall not be a valid defense against any bona fide third party.

第 335 條

抵銷，應以意思表示，向他方為之。其相互間債之關係，溯及最初得為抵銷時，按照抵銷數額而消滅。

Article 335

The offset shall be made with the expression of intent by one party to the other. As the mutual relationship of the obligations between themselves, it is extinguished to the extent of the corresponding amounts of the obligations deducted in the offset since the moment when the offset could be claimed.

The expression specified in the preceding paragraph, if made subject to a condition or to a time of commencement or ending, is void.

前項意思表示，附有條件或期限者，無效。

第 336 條

清償地不同之債務，亦得為抵銷。但為抵銷之人，應賠償他方因抵銷而生之損害。

Article 336

An offset may be made even though the obligations are to be performed in different places; but the party who has claimed the offset shall compensate the other party for any injury resulting therefrom.

第 337 條

債之請求權雖經時效而消滅，如在時效未完成前，其債權已適於抵銷者，亦得為抵銷。

Article 337

Even if the claim of an obligation has been extinguished by prescription, it may also be offset, provided that the offset may be made prior to its extinction.

第 338 條

禁止扣押之債，其債務人不得主張抵銷。

Article 338

If the obligation is not subject to a judicial attachment, the debtor shall not claim for offset.

第 339 條

因故意侵權行為而負擔之債，其債務人不得主張抵銷。

Article 339

If the obligation is resulted from an intentional wrongful act, the debtor shall not claim for offset.

第 340 條

受債權扣押命令之第三債務人，於扣押後，始對其債權人取得債權者，不得以其所取得之債權與受扣押之債權為抵銷。

Article 340

When an obligation has been attached by an order of the court, the third debtor of such obligation shall not take a claim which he has acquired from the creditor after the attachment to offset the obligation attached.

第 341 條

約定應向第三人為給付之債務人，不得以其債務，與他方當事人對於自己之債務為抵銷。

Article 341

When it is provided by a contract that an obligation shall be performed to a third party, the debtor of such obligation shall not take the obligation of the other party to the contract to offset his obligation.

第 342 條

第三百二十一條至第三百二十三條之規定，於抵銷準用之。

Article 342

The provisions of Articles 321 to 323 shall apply mutatis mutandis to the offset.

第五款 免除

Sub-section 5 Releases

第 343 條

債權人向債務人表示免除其債務之意思者，債之關係消滅。

Article 343

If the creditor has expressed his intent to release the debtor from his obligation, the relationship of the obligation is extinguished.

第六款 混同

Sub-section 6 Merger

第 344 條

債權與其債務同歸一人時，債之關係消滅。但其債權為他人權利之標的或法律另有規定者，不在此限。

Article 344

When the right and liability of an obligation are vested in the same person, the obligation is extinguished, except when it was the object of another person's right or when it is otherwise provided by the act.

第二章 各種之債

Chapter II Particular Kinds Of Obligations

第一節 買賣

Section 1 – Sale

第一款 通則

Sub-section 1 General Provisions

第 345 條 (買賣之意義及成立)

稱買賣者，謂當事人約定一方移轉財產權於他方，他方支付價金之契約。
當事人就標的物及其價金互相同意時，買賣契約即為成立。

Article 345

A sale is a contract whereby the parties agree that one of them shall transfer to the other his rights over property and the latter shall pay a price for it.
The contract of sale is completed when the parties have mutually agreed on the object and the price.

第 346 條(買賣價金)

價金雖未具體約定，而依情形可得而定者，視為定有價金。

價金約定依市價者，視為標的物清償時、清償地之市價。但契約另有訂定者，不在此限。

Article 346

Although the price is not fixed concretely by the agreement, if it may be decided from the circumstances, it is deemed to be fixed.
If it is agreed that the price shall be fixed according to the market price, it is deemed to be fixed according to such market price at the place and time of performance unless otherwise provided by contract.

第 347 條(有償契約準用買賣規定)

本節規定，於買賣契約以外之有償契約準用之。但為其契約性質所不許者，不在此限。

Article 347

The provisions under the present title shall apply mutatis mutandis to such nongratuitous contracts other than those of sale, unless the nature of the contract does not permit.

第二款效力

Sub-section 2 Effects of Sale

第 348 條(出賣人之移轉財產權及交付標的物之義務)

物之出賣人，負交付其物於買受人，並使其取得該物所有權之義務。

Article 348

The seller of a thing is bound to deliver the thing to the buyer and to make him acquire its ownership.

權利之出賣人，負使買受人取得其權利之義務，如因其權利而得占有一定之物者，並負交付其物之義務。

The seller of a right is bound to make the buyer acquire the right sold. If, by virtue of such right, the seller can possess a certain thing, he is also bound to deliver the thing.

第 349 條(權利瑕疵擔保(一) - 權利無缺)

出賣人應擔保第三人就買賣之標的物，對於買受人不得主張任何權利。

Article 349

The seller shall warrant that the thing sold is free from any right enforceable by third parties against the buyer.

第 350 條(權利瑕疵擔保(二) - 權利存在)

債權或其他權利之出賣人，應擔保其權利確係存在。有價證券之出賣人，並應擔保其證券未因公示催告而宣示無效。

Article 350

The seller of a claim of prestation or any other right shall warrant the actual existence of such prestation or right. The seller of valuable securities shall also warrant that it shall not be declared voidance through public summons.

第 351 條(權利瑕疵擔保之免除)

買受人於契約成立時，知有權利之瑕疵者，出賣人不負擔保之責。但契約另有訂定者，不在此限。

Article 351

If the buyer knew at the time of concluding the contract the defect of the right sold, the seller is not bound to warrant such defect, unless otherwise provided by contract.

第 352 條(債務人支付能力之擔保責任)

債權之出賣人，對於債務人之支付能力，除契約另有訂定外，不負擔保責任，出賣人就債務人之支付能力，負擔保責任者，推定其擔保債權移轉時債務人之支付能力。

Article 352

Unless otherwise provided by contract, the seller of a claim of prestation does not warrant the solvency of the debtor. If he warrants the solvency of the debtor he is presumed to warrant the solvency at the time when the claim of prestation is transferred.

第 353 條(權利瑕疵擔保之效果)

出賣人不履行第三百四十八條至第三百五十一條所定之義務者，買受人得依關於債務不履行之規定，行使其權利。

Article 353

If the seller does not perform his duties specified in Articles 348-351, the buyer may exercise his rights in accordance with the provisions concerning non-performance of obligations.

第 354 條(物之瑕疵擔保責任與效果)

物之出賣人對於買受人，應擔保其物依第三百七十三條之規定危險移轉於買受人時無滅失或減少其價值之瑕疵，亦無滅失或減少其通常效用或契約預定效用之瑕疵。但減少之程度，無關重要者，不得視為瑕疵。

出賣人並應擔保其物於危險移轉時，具有其所保證之品質。

Article 354

The seller of a thing shall warrant that the thing sold is, at the time when the danger passes to the buyer according to the provisions of Article 373, free from any defect in quality which may destroy or impair its value, or its fitness for ordinary efficacy, or its fitness for the efficacy of the contract of sale. However, if the extent of the impairment is of no importance, such impairment shall not be deemed to be a defect.

The seller also shall warrant that, at the time the danger passes; the thing has the guaranteed qualities.

第 355 條(物之瑕疵擔保責任之免除) **Article 355**

買受人於契約成立時，知其物有前條第一項所稱之瑕疵者，出賣人不負擔保之責。

買受人因重大過失，而不知有前條第一項所稱之瑕疵者，出賣人如未保證其無瑕疵時，不負擔保之責。但故意不告知其瑕疵者，不在此限。

A seller is not responsible for such defect of quality in the thing sold as specified in the first paragraph of the preceding article, if the buyer knew of the defect at the time when the contract was made.

If a defect of the kind specified in the first paragraph of the preceding article has remained unknown to the buyer in consequence of gross negligence, the seller is not responsible if he has not guaranteed that the thing is free from the defect, except in the case that he has intentionally concealed it.

第 356 條(買受人之檢查通知義務) **Article 356**

買受人應按物之性質，依通常程序從速檢查其所受領之物。如發見有應由出賣人負擔保責任之瑕疵時，應即通知出賣人。

買受人怠於為前項之通知者，除依通常之檢查不能發見之瑕疵外，視為承認其所受領之物。

不能即知之瑕疵，至日後發見者，應即通知出賣人，怠於為通知者，視為承認其所受領之物。

The buyer is bound to examine without delay the thing received in accordance with the nature of such thing and as far as the ordinary procedure of affairs allows it, and should he discover any defect for which the seller is responsible, he shall immediately notify the seller of such defect.

If the buyer delays giving the notice mentioned in the preceding paragraph, he is deemed to have accepted the thing, except in case where the defect is one which would not have been revealed by ordinary examination.

Should a defect, which could not have been discovered immediately, be discovered subsequently, notice shall be sent to the seller without delay after the discovery. If the buyer delays giving such notice, the thing is deemed to be accepted.

第 357 條(檢查通知義務之排除) **Article 357**

前條規定，於出賣人故意不告知瑕疵於買受人者，不適用之。

The provisions of the preceding article do not apply to cases where the seller has intentionally concealed the defect.

第 358 條(異地送到之物之保管、通知、變賣義務) **Article 358**

買受人對於由他地送到之物，主張有瑕疵，不願受領者，如出賣人於受領地無代理人，買受人有暫為保管之責。

前項情形，如買受人不即依相當方法證明其瑕疵之存在者，推定於受領時為無瑕疵。

送到之物易於敗壞者，買受人經依相當方法之證明，得照市價變賣之。如為出賣人之利益，有必要時，並有變賣之義務。

買受人依前項規定為變賣者，應即通知出賣人，如怠於通知，應負損害賠償之責。

A buyer, who declines to accept a thing forwarded from another place by asserting that it is defective, is bound to preserve it in his custody temporarily, when the seller has no agent in the place of delivery.

In the case specified in the preceding paragraph, if the buyer fails to take proper measures immediately to prove the existence of the defect, it is presumed that the defect asserted did not exist at the time of the delivery.

If the thing forwarded will easily deteriorate, the buyer may sell it according to the market price when he takes proper measure to prove that. If it is to the advantage of the seller, the buyer is bound to make such sale, when necessary.

The buyer, who sells the thing in accordance with the provisions of the preceding paragraph, shall notify the seller without delay. If he delays the notice, he shall be liable to compensate for the injury arising therefrom.

第 359 條(物之瑕疵擔保效力(一)) Article 359**- 解約或減少價金)**

買賣因物有瑕疵，而出賣人依前五條之規定，應負擔保之責者，買受人得解除其契約或請求減少其價金。但依情形，解除契約顯失公平者，買受人僅得請求減少價金。

When there is a defect in the thing sold for which, according to the provisions of the five preceding articles, the seller is responsible for a warranty, the buyer has the option to rescind the contract or to ask for a reduction of the price, unless in the case specified, that a rescission of the contract would constitute an obvious unfairness of the transaction the buyer is only entitled to ask for a reduction of the price.

第 360 條(物之瑕疵擔保效力(二)) Article 360
請求不履行之損害賠償)

買賣之物，缺少出賣人所保證之品質者，買受人得不解除契約或請求減少價金，而請求不履行之損害賠償；出賣人故意不告知物之瑕疵者亦同。

In the absence of a quality of the thing sold, which was guaranteed by the seller, the buyer may demand to compensate for the injury of nonperformance, instead of rescission of the contract or of a reduction of the price. The same rule shall be applied if the seller has intentionally concealed a defect in a thing.

第 361 條(解約催告)

買受人主張物有瑕疵者，出賣人得定相當期限，催告買受人於其期限內是否解除契約。

買受人於前項期限內不解除契約者，喪失其解除權。

Article 361

If the buyer asserts that there is a defect in the thing sold, the seller may fix a reasonable deadline and notify the buyer to declare within such deadline whether he rescinds the contract or not.

If the buyer does not rescind the contract within the deadline specified in the preceding paragraph, the right of rescission is lost.

第 362 條(解約與從物)

因主物有瑕疵而解除契約者，其效力及於從物。

從物有瑕疵者，買受人僅得就從物之部分為解除。

Article 362

Rescission of a contract on account of a defect in the principal thing extends to its accessory.

If there is a defect in the accessory, the buyer may only rescind such contract of accessory.

第 363 條(數物併同出賣時之解除契約) Article 363

為買賣標的之數物中，一物有瑕疵者，買受人僅得就有瑕疵之物為解除。其以總價金將數物同時賣出者，買受人並得請求減少與瑕疵物相當之價額。

前項情形，當事人之任何一方，如因有瑕疵之物，與他物分離而顯受損害者，得解除全部契約。

If one of several things sold is defective, the buyer may only rescind such defective thing. If several things are sold for an aggregate price, the buyer may also demand a reduction in the aggregate price proportionate to the defective thing.

In the case provided by the preceding paragraph, either party may rescind the whole contract if he is obviously injured through the separation of the defective thing from the others.

第 364 條(瑕疵擔保之效力 - 另行交付無瑕疵之物) Article 364

買賣之物，僅指定種類者，如其物

When the thing sold is a thing designated only as to its kind, and

有瑕疵，買受人得不解除契約或請求減少價金，而即時請求另行交付無瑕疵之物。

出賣人就前項另行交付之物，仍負擔擔保責任。

第 365 條(解除權或請求權之消滅)

買受人因物有瑕疵，而得解除契約或請求減少價金者，其解除權或請求權，於買受人依第三百五十六條規定為通知後六個月間不行使或自物之交付時起經過五年而消滅。

前項關於六個月期間之規定，於出賣人故意不告知瑕疵者，不適用之。

第 366 條(免除或限制擔保義務之特約)

以特約免除或限制出賣人關於權利或物之瑕疵擔保義務者，如出賣人故意不告知其瑕疵，其特約為無效。

第 367 條(買受人之義務)

買受人對於出賣人，有交付約定價金及受領標的物之義務。

第 368 條(價金支付拒絕權)

買受人有正當理由，恐第三人主張權利，致失其因買賣契約所得權利之全部或一部者，得拒絕支付價金之全部或一部。但出賣人已提出相當擔保者，不在此限。

前項情形，出賣人得請求買受人提存價金。

第 369 條(標的物與價金交付時期)

買賣標的物與其價金之交付，除法律另有規定或契約另有訂定或另有習慣外，應同時為之。

第 370 條(價金交付期限之推定)

標的物交付定有期限者，其期限，推定其為價金交付之期限。

第 371 條(價金交付之處所)

標的物與價金應同時交付者，其價

the thing is defective, the buyer may, instead of rescission of the contract or a reduction of the price, immediately request the seller to deliver in exchange another thing free from defect.

The seller is also bound to warrant that the thing delivered in exchange under the preceding paragraph is free from defect.

Article 365

Where there has been delivery of a thing which is defective, the right of the buyer to rescind the contract, or to claim a reduction of the price is extinguished by prescription, according to the provision of article 356, if the buyer does not exercise his rights within six months after notice or after five years from the date of delivery.

The provisions of the preceding paragraph concerning six months periods shall not be applied if the seller has intentionally concealed the defect.

Article 366

An agreement releasing the seller of liability on account of defects in a right or a thing or limiting such liability is void if the seller has intentionally concealed the defect.

Article 367

The buyer is bound to pay to the seller the agreed price and to accept delivery of the object sold.

Article 368

If the buyer has good causes to fear that a third party may assert rights which may deprive the said buyer of the whole or a part of the rights derived from the sale, he may refuse to pay the whole or a part of the price, except the seller has furnished proper security.

In the cases specified in the preceding paragraph, the seller may request the buyer to lodge the price.

Article 369

Unless otherwise provided, by the act, by contract or by customs, the delivery of the object sold and the payment of the price shall take place simultaneously.

Article 370

If a deadline for the delivery of the object sold has been fixed, such deadline is presumed to be the deadline for the payment of the price.

Article 371

If the delivery of the object sold and the payment of the price

金應於標的物之交付處所交付之。

shall take place simultaneously, the price shall be paid at the place of delivery.

第 372 條(依重量計算價金之方法)

價金依物之重量計算者，應除去其包皮之重量。但契約另有訂定或另有習慣者，從其訂定或習慣。

Article 372

If the price is calculated according to the weight of the thing sold, the weight of the packing shall be deducted. Unless otherwise provided by the contract or if there is a specific custom, such contract or custom shall be followed.

第 373 條(標的物利益與危險之承受負擔)

買賣標的物之利益及危險，自交付時起，均由買受人承受負擔，但契約另有訂定者，不在此限。

Article 373

The profits and dangers of the object sold pass to the buyer at the time of delivery, unless otherwise provided by contract.

第 374 條(送交清償地以外處所之標的物危險之負擔)

買受人請求將標的物送交清償地以外之處所者，自出賣人交付其標的物於為運送之人或承攬運送人時起，標的物之危險，由買受人負擔。

Article 374

If the buyer requests that the object sold be delivered at a place other than the place where delivery ought to be made, the dangers pass to the buyer at the time when the seller delivers the object to the person who transports it or is entrusted with its transportation.

第 375 條(交付前負擔危險之買受人費用返還義務)

標的物之危險，於交付前已應由買受人負擔者，出賣人於危險移轉後，標的物之交付前，所支出之必要費用，買受人應依關於委任之規定，負償還責任。

前項情形，出賣人所支出之費用，如非必要者，買受人應依關於無因管理之規定，負償還責任。

Article 375

If the dangers have passed to the buyer before delivery of the object sold, and the seller incurs any necessary outlay on the object before delivery and after such dangers have passed, the buyer is bound to compensate the seller for such outlay in conformity with the provisions concerning Mandate.

If the outlay incurred under the circumstances described in the preceding paragraph was not necessary, the buyer is bound to compensate such outlay in conformity with the provisions concerning Management of Affairs without Mandate.

第 376 條(出賣人違反關於送交方法特別指示之損害賠償)

買受人關於標的物之送交方法，有特別指示，而出賣人無緊急之原因，違其指示者，對於買受人因此所受之損害，應負賠償責任。

Article 376

If the buyer has given specific instructions as to the manner of forwarding the object sold and the seller deviates from those instructions without urgent reason, and the seller is liable to the buyer for any injury resulting therefrom.

第 377 條(以權利為買賣標的之利益與危險之承受負擔)

以權利為買賣之標的，如出賣人因其權利而得占有有一定之物者，準用前四條之規定。

Article 377

When the object of a sale is a right, by virtue of which the seller may possess a certain thing, the provisions of the four preceding articles shall be mutatis mutandis applied.

第 378 條(買賣費用之負擔)

Article 378

買賣費用之負擔，除法律另有規定或契約另有訂定或另有習慣外，依左列之規定。

- 一、買賣契約之費用，由當事人雙方平均負擔。
- 二、移轉權利之費用，運送標的物至清償地之費用及交付之費用，由出賣人負擔。
- 三、受領標的物之費用，登記之費用及送交清償地以外處所之費用，由買受人負擔。

Unless otherwise provided by the act, by contract or by customs, the costs of sale are to be borne according to the following rules:

- (1) The costs of the contract of sale are to be borne by both parties equally;
- (2) The costs of transferring the right sold, the costs of transporting the object sold to the place of performance, and the costs of delivery are to be borne by the seller;
- (3) The costs of accepting delivery of the thing sold, the costs of registration and the costs of forwarding the thing sold to a place other than the place of performance, are to be borne by the buyer.

第三款買回

Sub-section 3 Redemption

第 379 條(買回之要件)

出賣人於買賣契約保留買回之權利者，得返還其所受領之價金，而買回其標的物。
前項買回之價金，另有特約者，從其特約。

原價金之利息，與買受人就標的物所得之利益，視為互相抵銷。

Article 379

When in the contract of sale, the seller reserves the right of redemption, he may redeem the object sold on returning the price.

If the price for redemption specified in the preceding paragraph has been fixed by an agreement, such agreement shall be followed.

The interest on the original price and the profits obtained by the buyer from the object sold are deemed to be offset against each other.

第 380 條(買回之期限)

買回之期限，不得超過五年，如約定之期限較長者，縮短為五年。

Article 380

The redemption period shall not exceed five years. If a longer period is provided by the contract, it shall be reduced to five years.

第 381 條(買賣費用之償還與買回費用之負擔)

買賣費用由買受人支出者，買回人應與買回價金連同償還之。
買回之費用，由買回人負擔。

Article 381

The person who redeems shall return the costs of the sale paid by the buyer together with the price of redemption.

Costs of redemption are borne by the person who redeems.

第 382 條(改良及有益費用之償還)

買受人為改良標的物所支出之費用及其他有益費用，而增加價值者，買回人應償還之。但以現存之增價額為限。

Article 382

The person who redeems shall return the expenses and other beneficial outlays made by the buyer for the improvement of the object, in so far as the value of the object has been presently increased thereby.

第 383 條(原買受人之義務及責任)

買受人對於買回人，負交付標的物及其附屬物之義務。
買受人因可歸責於自己之事由，致不能交付標的物或標的物顯有變更者，應賠償因此所生之損害。

Article 383

The buyer is bound to the person who redeems to deliver the object sold along with its accessories.

If, owing to circumstances for which the buyer is responsible, the object sold cannot be delivered, or has been obviously altered, the buyer shall be bound to compensate for any injury

arising therefrom.

第四款 特種買賣

Sub-section 4 Particular Kinds of Sale

第 384 條(試驗買賣之意義)

試驗買賣，為以買受人之承認標的物為停止條件而訂立之契約。

Article 384

A contract of sale on approval is a contract which is constituted to be subject to the suspensful condition of the approval of the object of the sale by the buyer.

第 385 條(容許試驗義務)

試驗買賣之出賣人，有許買受人試驗其標的物之義務。

Article 385

In a contract of sale on approval the seller is bound to permit the buyer to examine the object sold.

第 386 條(視為拒絕承認標的物)

標的物經試驗而未交付者，買受人於約定期限內，未就標的物為承認之表示，視為拒絕；其無約定期限，而於出賣人所定之相當期限內，未為承認之表示者亦同。

Article 386

If the object has been examined without being delivered and the buyer has not declared his acceptance within the agreed deadline, the buyer is deemed to have refused acceptance. The same rule shall be applied, if in the absence of an agreed deadline the buyer has not declared his acceptance within a reasonable deadline fixed by the seller.

第 387 條(視為承認標的物)

標的物因試驗已交付於買受人，而買受人不交還其物，或於約定期限或出賣人所定之相當期限內不為拒絕之表示者，視為承認。

Article 387

If an object has been delivered to be examined and the buyer does not return the object or declare his refusal within the agreed deadline, or, in the absence of an agreed deadline, within a reasonable deadline fixed by the seller, the buyer is deemed to have accepted.

買受人已支付價金之全部或一部，或就標的物為非試驗所必要之行為者，視為承認。

If the buyer has paid the whole price or a portion of it, or does any action which is not necessary for examining the object, he is deemed to have accepted it.

第 388 條(貨樣買賣)

按照貨樣約定買賣者，視為出賣人擔保其交付之標的物與貨樣有同一之品質。

Article 388

In a sale according to sample the seller is deemed to warrant that the object delivered will have the same quality as the sample.

第 389 條(分期付款買賣期限利益喪失約款之限制)

分期付款之買賣，如約定買受人有遲延時，出賣人得即請求支付全部價金者，除買受人遲付之價額已達全部價金五分之一外，出賣人仍不得請求支付全部價金。

Article 389

A clause in a contract of sale by installments that the whole of the price may be claimed by seller as soon as the buyer is in default shall not be enforced, unless the buyer is in default for installments representing at least one-fifth of the total price.

第 390 條(解約扣價約款之限制)

分期付款之買賣，如約定出賣人於解除契約時，得扣留其所受領價金者，其扣留之數額，不得超過標的物使用之代價，及標的物受有損害

Article 390

A clause in a contract of sale by installments, if it is agreed that, upon the rescission of the contract, the seller may retain the installments received, the amount retained shall not exceed an amount representing the rental of the object sold plus damages

時之賠償額。

in case the object sold has sustained any injury.

第 391 條(拍賣之成立)

拍賣，因拍賣人拍板或依其他慣用之方法為賣定之表示而成立。

Article 391

A sale by auction is constituted when the auctioneer announces its completion by knocking down the hammer or in any other customary manner.

第 392 條(拍賣人應買之禁止)

拍賣人對於其所經管之拍賣，不得應買，亦不得使他人為其應買。

Article 392

The auctioneer shall not bid nor employ any person to bid at any auction conducted by him.

第 393 條(拍賣物之拍定)

拍賣人除拍賣之委任人有反對之意思表示外，得將拍賣物拍歸出價最高之應買人。

Article 393

Unless the person who has ordered the sale has expressed a contrary intent, the auctioneer has the right to adjudge the lot to the highest bidder.

第 394 條(拍定之撤回)

拍賣人對於應買人所出最高之價，認為不足者，得不為賣定之表示而撤回其物。

Article 394

The auctioneer may not announce the completion of the sale, and withdraw a lot from the auction if he thinks that the highest bid is insufficient.

第 395 條(應買表示之效力)

應買人所為應買之表示，自有出價較高之應買或拍賣物經撤回時，失其拘束力。

Article 395

A bid made by a bidder ceases to be binding, when a higher bid is made or when the lot is withdrawn from the auction.

第 396 條(以現金支付買價及支付時期)

拍賣之買受人，應於拍賣成立時或拍賣公告內所定之時，以現金支付買價。

Article 396

The buyer at a sale by auction shall pay the price in cash when the sale by auction constituted or at the time fixed by the notice advertising the sale.

第 397 條(不按時支付價金之效力 - 解約再拍賣及賠償差額)

拍賣之買受人，如不按時支付價金者，拍賣人得解除契約，將其物再為拍賣。

再行拍賣所得之價金，如少於原拍賣之價金及再行拍賣之費用者，原買受人應負賠償其差額之責任。

Article 397

If the buyer at a sale by auction fails to pay the price in time, the auctioneer may rescind the contract and resell the thing by auction.

If the price of the second auction does not cover the original price and costs of the resell by auction, the original buyer is liable for the difference.

第二節 互易

Section 2 - Exchange

第 398 條(交互準用買賣之規定)

當事人雙方約定互相移轉金錢以外之財產權者，準用關於買賣之規定。

Article 398

The provisions concerning Sale shall apply mutatis mutandis to the case where the parties agree to transfer to one another his rights over property other than money.

第 399 條(附有補足金之互易準用買賣之規定)

當事人之一方，約定移轉前條所定之財產權，並應交付金錢者，其金錢部分，準用關於買賣價金之規定。

Article 399

If one of the parties has agreed to deliver or transfer to the other money in addition to the rights over property specified in the preceding article, the provisions concerning the price of sale shall apply mutatis mutandis to such money.

第三節 交互計算**Section 3 - Current Account****第 400 條(交互計算之意義)**

稱交互計算者，謂當事人約定以其相互間之交易所生之債權、債務為定期計算，互相抵銷，而僅支付其差額之契約。

Article 400

Current account is a contract whereby the parties agree that the claim of prestations and obligations arising from transactions between them shall be settled at fixed periods and offset against each other, the balance only being paid.

第 401 條(票據及證券等記入交互計算項目之除去)

匯票、本票、支票及其他流通證券，記入交互計算者，如證券之債務人不為清償時，當事人得將該記入之項目除去之。

Article 401

The entry of a bill of exchange, promissory note, check or other negotiable instrument in current account may be cancelled, if such negotiable instrument is not paid by its debtor.

第 402 條(交互計算之計算期)

交互計算之計算期，如無特別訂定，每六個月計算一次。

Article 402

In the absence of a specific agreement, the period for striking the balance of a current account shall be six months.

第 403 條(交互計算之終止)

當事人之一方，得隨時終止交互計算契約，而為計算但契約另有訂定者，不在此限。

Article 403

Unless otherwise provided by contract, either party may at any time terminate the contract of current account and have the balance struck.

第 404 條(利息之附加)

記入交互計算之項目，得約定自記入之時起，附加利息。
由計算而生之差額，得請求自計算時起，支付利息。

Article 404

The parties may agree that each item in the current account shall bear interest from the date of entry.
Interest may be claimed on the difference from the date the balance was struck

第 405 條(記入交互計算項目之除去或改正)

記入交互計算之項目，自計算後，經過一年，不得請求除去或改正。

Article 405

Removal or correction of the items of entry in a current account shall not be claimed after one year from the date when the balance was struck.

第四節 贈與**Section 4 - Gift****第 406 條(贈與之意義及成立)**

稱贈與者，謂當事人約定，一方以自己之財產無償給與他方，他方允

Article 406

A gift is a contract whereby the parties agree that one of the parties delivers his property gratuitously to another party and

受之契約。

the latter agrees to accept it.

第 407 條
(刪除)

Article 407
(Repealed)

第 408 條(贈與之任意撤銷及其例外)

Article 408

贈與物之權利未移轉前，贈與人得撤銷其贈與。其一部已移轉者，得就其未移轉之部分撤銷之。

So long as the right of the gift has not been transferred to the donee, the donor may revoke the gift. If the thing given has been partially transferred, the donor may revoke the gift for the portion has not been transferred.

前項規定，於經公證之贈與，或為履行道德上義務而為贈與者，不適用之。

The provision of the preceding paragraph shall not apply to gifts notarized or to gifts made for the discharge of a moral obligation.

第 409 條(受贈人之權利)

Article 409

贈與人就前條第二項所定之贈與給付遲延時，受贈人得請求交付贈與物；其因可歸責於自己之事由致給付不能時，受贈人得請求賠償贈與物之價額。

If a gift coming under the provisions of the second paragraph of the preceding article delayed to deliver, the donee may claim the delivery of the thing given, the donee may claim to compensate for the price of the thing given when the donor is responsible for being unable to perform the payment.

前項情形，受贈人不得請求遲延利息或其他不履行之損害賠償。

In the case of the preceding paragraph, the donee shall not claim to interest for the default or other injury for such non-performance.

第 410 條(贈與人之責任)

Article 410

贈與人僅就其故意或重大過失，對於受贈人負給付不能之責任。

The donor is responsible to be unable to perform the payment to the donee only for his intentional acts or gross negligence.

第 411 條(瑕疵擔保責任)

Article 411

贈與之物或權利如有瑕疵，贈與人不負擔保責任。但贈與人故意不告知其瑕疵或保證其無瑕疵者，對於受贈人因瑕疵所生之損害，負賠償之義務。

The donor is not liable for a defect in the thing or right given. But, if he has intentionally concealed the defect or expressly guaranteed that the thing was free from such defect, he is bound to compensate the donee for any injury arising therefrom.

第 412 條(附負擔之贈與)

Article 412

贈與附有負擔者，如贈與人已為給付而受贈人不履行其負擔時，贈與人得請求受贈人履行其負擔，或撤銷贈與。

If the gift has been made subject to a charge and the donee does not perform the charge after the gift has been delivered to him, the donor may demand performance or revoke the gift.

負擔以公益為目的者，於贈與人死亡後，主管機關或檢察官得請求受贈人履行其負擔。

If the purpose of the charge is for the public interests, the authorities concerned or public prosecutor may, after the donor died, order the donee to perform it.

第 413 條(受贈人履行負擔責任之限度)

Article 413

附有負擔之贈與，其贈與不足償其負擔者，受贈人僅於贈與之價值限

If the gift is made subject to a charge and it is insufficient to defray the charge, the donee is bound to perform the charge only

度內，有履行其負擔之責任。

up to the extent of the value of the gift.

第 414 條(附負擔贈與之瑕疵擔保責任)

附有負擔之贈與，其贈與之物或權利如有瑕疵，贈與人於受贈人負擔之限度內，負與出賣人同一之擔保責任。

Article 414

When a gift is made subject to a charge, the donor is liable for defects in the thing or right given in the same rule as a seller, up to the extent of the charge executed by the donee.

第 415 條(定期贈與當事人之死亡)

定期給付之贈與，因贈與人或受贈人之死亡，失其效力。但贈與人有反對之意思表示者，不在此限。

Article 415

If a gift consists in periodical prestations to be performed by the donor, the obligation has ceased to be effective when either the donor or donee died, unless the donor has expressed a contrary intent.

第 416 條(贈與人之撤銷權)

受贈人對於贈與人，有左列情事之一者，贈與人得撤銷其贈與：

一、對於贈與人、其配偶、直系血親、三親等內旁系血親或二親等內姻親，有故意侵害之行為，依刑法有處罰之明文者。

二、對於贈與人有扶養義務而不履行者。

前項撤銷權，自贈與人知有撤銷原因之時起，一年內不行使而消滅。贈與人對於受贈人已為宥恕之表示者，亦同。

Article 416

The donor may revoke a gift if the donee has acted towards the donor in any of the following ways:

(1) Committing against the donor, his spouse, his lineal blood relatives, collateral relatives by blood within three generations, or relatives by marriage within two generations an intentional offense expressly punishable under the Penal Code; or

(2) Failing to perform his duty to furnish maintenance to the donor, in case he has such duty.

The right of revocation specified in the preceding paragraph is extinguished by prescription if it is not exercised within one year from the date when the donor knew of the grounds for revocation. The same rule shall be applied if the donor has expressly forgiven the donee.

第 417 條(繼承人之撤銷權)

受贈人因故意不法之行為，致贈與人死亡或妨礙其為贈與之撤銷者，贈與人之繼承人，得撤銷其贈與。但其撤銷權自知有撤銷原因之時起，六個月間不行使而消滅。

Article 417

The successor of the donor may revoke the gift if the donee has intentionally and wrongfully caused the death of the donor or prevented the donor from revoking the gift. But their right of revocation will be extinguished by prescription, if it is not exercised within six months from the date when they knew of the said ground for revocation.

第 418 條(贈與人之窮困抗辯 - 贈與履行之拒絕)

贈與人於贈與約定後，其經濟狀況顯有變更，如因贈與致其生計有重大之影響，或妨礙其扶養義務之履行者，得拒絕贈與之履行。

Article 418

A donor may refuse performance of a gift, if after the gift has been agreed upon his economic conditions have changed, to such an extent that the performance of the gift would seriously affect his means of livelihood or hinder his duty to furnish maintenance to others.

第 419 條(撤銷贈與之方法及效果)

贈與之撤銷，應向受贈人以意思表示為之。

Article 419

Revocation of a gift shall be made by an expression of intent to the donee.

贈與撤銷後，贈與人得依關於不當得利之規定，請求返還贈與物。

After the revocation of the gift, the donor may demand to return the gift given in accordance with the provisions concerning Unjust Enrichment.

第 420 條(撤銷權之消滅)

贈與之撤銷權，因受贈人之死亡而消滅。

Article 420

The right of revocation of a gift is extinguished by the death of the donee.

第五節 租賃

Section 5 - Lease

第 421 條(租賃之定義)

稱租賃者，謂當事人約定，一方以物租與他方使用收益，他方支付租金之契約。
前項租金，得以金錢或租賃物之孳息充之。

Article 421

A lease is a contract whereby the parties agree that one of them shall let the other party use a thing or collect profits therefrom and the latter shall pay a rental for it.
The rental specified in the preceding paragraph may consist of money or of profits of the thing leased.

第 422 條(不動產租賃契約之方式)

不動產之租賃契約，其期限逾一年者，應以字據訂立之，未以字據訂立者，視為不定期限之租賃。

Article 422

A lease of real property for a period exceeding one year shall be executed in writing. If it is not so executed in writing, it is deemed to have been made for an indefinite period.

第 422-1 條(地上權登記之請求)

租用基地建築房屋者，承租人於契約成立後，得請求出租人為地上權之登記。

Article 422-1

Leasing a land (station) for building a house, a lessee may demand a lessor to register superficies after a contract constituted.

第 423 條(租賃物之交付及保持義務)

出租人應以合於所約定使用收益之租賃物，交付承租人，並應於租賃關係存續中，保持其合於約定使用、收益之狀態。

Article 423

The lessor shall be bound to deliver to the lessee the thing leased in a condition fit for the stipulated use or for the collection of profits as agreed upon. He shall be also liable to keep it up in such a condition as to be fit for such use or collection of profits during the continuance of the lease.

第 424 條(承租人之契約終止權)

租賃物為房屋或其他供居住之處所者，如有瑕疵，危及承租人或其同居人之安全或健康時，承租人雖於訂約時已知其瑕疵，或已拋棄其終止契約之權利，仍得終止契約。

Article 424

In the case of a lease of a house or other place intended for habitation, if the defect is such as to endanger the health or safety of the lessee or of the persons living with him, the lessee may terminate the contract, although he knew of the defects at the time of the contract or has waived his right of terminating the contract.

第 425 條(租賃物所有權之讓與)

出租人於租賃物交付後，承租人占有中，縱將其所有權讓與第三人，其租賃契約，對於受讓人仍繼續存在。

Article 425

A lease continues to exist to the transferee notwithstanding the lessor transfers the ownership of the thing leased to a third party after the lessor delivered the thing leased and the lessee has possessed such thing.

前項規定，於未經公證之不動產租賃契約，其期限逾五年或未定期限者，不適用之。

The provisions of preceding paragraph shall not apply to a lease of real property without notarizing, the period exceeding five years or an indefinite period.

第 425-1 條(土地所有人與房屋所有人之租賃關係)

土地及其土地上之房屋同屬一人所有，而僅將土地或僅將房屋所有權讓與他人，或將土地及房屋同時或先後讓與相異之人時，土地受讓人或房屋受讓人與讓與人間或房屋受讓人與土地受讓人間，推定在房屋得使用期限內，有租賃關係。其期限不受第四百四十九條第一項規定之限制。

前項情形，其租金數額當事人不能協議時，得請求法院定之。

Article 425- 1

The land and the house on such land belong to one person, he transfers only the ownership of land of the house to the other, or transfers the ownership of land and house simultaneously or in sequence to the different persons, the lease is presumed to be constituted between the transferee of the land or of the house and the person of transferor, or between the transferee of the house and of the land in the duration of the use of the house. The limitation of the period in the first paragraph of Article 449 shall not be applied.

In the case specified in the preceding paragraph, if the parties cannot reach an agreement, they may apply to the court to judge.

第 426 條(就租賃物設定物權之效力)

出租人就租賃物設定物權，致妨礙承租人之使用收益者，準用第四百二十五條之規定。

Article 426

The provisions of article 425 shall be mutatis mutandis applied, when the lessor creates the thing leased with a right in rem, which prevents the lessee from using and collecting the profits of the thing leased.

第 426-1 條(房屋所有權移轉時承租人之效力)

租用基地建築房屋，承租人房屋所有權移轉時，其基地租賃契約，對於房屋受讓人，仍繼續存在。

Article 426- 1

Leasing a land (station) for building a house, when the lessee transfers the ownership of the house, the lease of land (station) continues to exist to the transferee of house.

第 426-2 條(租用基地建築房屋之優先購買權)

租用基地建築房屋，出租人出賣基地時，承租人有依同樣條件優先承買之權。承租人出賣房屋時，基地所有人有依同樣條件優先承買之權。

前項情形，出賣人應將出賣條件以書面通知優先承買權人。優先承買權人於通知達到後十日內未以書面表示承買者，視為放棄。

出賣人未以書面通知優先承買權人而為所有權之移轉登記者，不得對抗優先承買權人。

Article 426- 2

Leasing a land (station) for building a house, if the lessor sells the station, the lessee is entitled to have a first right to buy it according to the same condition. If the lessee sells the house, the owner of the land (station) is entitled to have a first right to buy it according to the same condition.

In the case specified in the paragraph, the seller shall notify the conditions of sale in writing to the person who has a first right to buy it. The person who has a first right to buy it is deemed to give up his right, if he doesn't express his intent to buy it with in ten days after the notice arrived. If the seller doesn't notify the person who has a first right to buy it and registers the ownership of transferring, he shall not against the person who has a first right to buy it.

第 427 條(租賃物稅捐之負擔)

就租賃物應納之一切稅捐，由出租

Article 427

All charges and taxes on the thing leased shall be borne by the

人負擔。

lessor.

第 428 條(動物租賃飼養費之負擔)

租賃物為動物者，其飼養費由承租人負擔。

Article 428

If the thing leased is an animal, the lessee shall bear the cost of provender.

第 429 條(出租人之修繕義務)

租賃物之修繕，除契約另有訂定或另有習慣外，由出租人負擔。

出租人為保存租賃物所為之必要行為，承租人不得拒絕。

Article 429

Unless otherwise provided by the contract or customs, the lessor shall make all repairs to the thing leased.

The lessee shall not refuse the lessor to do such actions as are necessary for the maintenance of the thing leased.

第 430 條(修繕義務不履行之效力)

租賃關係存續中，租賃物如有修繕之必要，應由出租人負擔者，承租人得定相當期限，催告出租人修繕，如出租人於其期限內不為修繕者，承租人得終止契約或自行修繕而請求出租人償還其費用或於租金中扣除之。

Article 430

If, for the duration of the lease, the thing leased is necessary for repairing incumbent on the lessor, the lessee may fix a reasonable deadline and notify the lessor to make such repairs. If the lessor fails to make such repairs within the deadline, the lessee may terminate the contract or make the repairs himself with demanding the lessor to return for any expenses incurred therefrom or deducting the said expenses from the rental.

第 431 條(有益費用之償還及工作物之取回)

承租人就租賃物支出有益費用，因有增加該物之價值者，如出租人知其情事而不為反對之表示，於租賃關係終止時，應償還其費用。但以其現存之增價額為限。

承租人就租賃物所增設之工作物，得取回之。但應回復租賃物之原狀。

Article 431

If the lessee incurs any beneficial outlays for the thing leased, whereby its value is increased, and if the lessor knows of the circumstances but fails to express a contrary intent, he shall return such expenses to the lessee, upon the termination of the contract, expenses in so far as the value of the thing has been presently increased thereby.

The lessee may remove all the attachments affixed to the thing leased, unless he shall restore the thing leased to its status quo ante.

第 432 條(承租人之保管義務)

承租人應以善良管理人之注意，保管租賃物，租賃物有生產力者，並應保持其生產力。

承租人違反前項義務，致租賃物毀損、滅失者，負損害賠償責任。但依約定之方法或依物之性質而定之方法為使用、收益，致有變更或毀損者，不在此限。

Article 432

The lessee shall be bound to keep and manage the thing leased with the care of a good administrator. If the thing leased possesses productivity, he shall also be bound to maintain such productivity.

If the lessee violates the duty under the provisions of the preceding paragraph, whereby damage or destruction has been caused to the thing leased, he is bound to compensate for the injury arising therefrom. However, he is not responsible for any damage or change caused to the thing leased through the use of the thing, or through the collection of profits therefrom, in the ways as agreed upon or in the ways as are in accordance with the nature of the thing.

第 433 條(對於第三人行為之責任)

因承租人之同居人或因承租人允

Article 433

The lessee is bound to compensate for damage or destruction to

許為租賃物之使用、收益之第三人應負責之事由，致租賃物毀損、滅失者，承租人負損害賠償責任。

the thing leased, which has been brought about by circumstances for which the persons living with him or any third party, whom he permits to use the thing leased or to collect profits therefrom, shall be responsible to compensate for the injury.

第 434 條(失火責任)

租賃物因承租人之重大過失，致失火而毀損、滅失者，承租人對於出租人負損害賠償責任。

Article 434

If, owing to gross negligence of the lessee, damage or destruction is caused by fire to the thing leased, the lessee is bound to compensate the lessor for such injury.

第 435 條(租賃物一部滅失之效果)

租賃關係存續中，因不可歸責於承租人之事由，致租賃物之一部滅失者，承租人得按滅失之部分，請求減少租金。

前項情形，承租人就其存餘部分不能達租賃之目的者，得終止契約。

Article 435

If, in consequence of circumstances for which the lessee is not responsible, the thing leased is partially destroyed for the duration of the lease, the lessee may claim for a reduction of rental proportionate to the part destroyed.

In the case specified in the preceding paragraph, if the lessee cannot with the remaining part accomplish the purpose of the lease, he may terminate it.

第 436 條(權利瑕疵之效果)

前條規定，於承租人因第三人就租賃物主張權利，致不能為約定之使用、收益者準用之。

Article 436

The provisions of the preceding article shall be mutatis mutandis applied, when the lessee cannot use the thing leased or collect profits therefrom in the agreed use of, whereby a third party claims rights to the thing leased.

第 437 條(承租人之通知義務)

租賃關係存續中，租賃物如有修繕之必要，應由出租人負擔者，或因防止危害有設備之必要，或第三人就租賃物主張權利者，承租人應即通知出租人。但為出租人所已知者，不在此限。

承租人怠於為前項通知，致出租人不能及時救濟者，應賠償出租人因此所生之損害。

Article 437

For the duration of the lease, if the thing leased is necessary for repairing incumbent upon the lessor, or if an equipment becomes necessary for avoiding a danger to the thing, or if a third party claims a right over it, the lessee shall immediately notify the lessor of the occurrence, except the lessor already knew of it.

If the lessee delays giving such notice, and where the lessor owing to the delay could not afford remedy in time, the lessee shall be bound to compensate the lessor for any injury arising therefrom.

第 438 條(承租人使用收益租賃物之方法及違反之效果)

承租人應依約定方法，為租賃物之使用、收益；無約定方法者，應以依租賃物之性質而定之方法為之。

承租人違反前項之規定為租賃物之使用、收益，經出租人阻止而仍繼續為之者，出租人得終止契約。

Article 438

The lessee shall use the thing leased or collect profits therefrom only in the ways as are agreed upon, or, in the absence of such agreement, only in the ways as are in accordance with the nature of the thing leased.

If the lessee uses the thing leased or collects profits therefrom in a way against the provisions of the preceding paragraph, and if he continues to so use it notwithstanding a remonstrance of the lessor, the latter may terminate the contract.

第 439 條(支付租金之時期)

承租人應依約定日期，支付租金；無約定者，依習慣；無約定亦無習慣者，應於租賃期滿時支付之。如租金分期支付者，於每期屆滿時支付之。如租賃物之收益有季節者，於收益季節終了時支付之。

第 440 條(租金支付遲延之效力)

承租人租金支付有遲延者，出租人得定相當期限，催告承租人支付租金，如承租人於其期限內不為支付，出租人得終止契約。

租賃物為房屋者，遲付租金之總額，非達二個月之租額，不得依前項之規定，終止契約。其租金約定於每期開始時支付者，並應於遲延給付逾二個月時，始得終止契約。

租用建築房屋之基地，遲付租金之總額，達二年之租額時，適用前項之規定。

第 441 條(租金之續付)

承租人因自己之事由，致不能為租賃物全部或一部之使用、收益者，不得免其支付租金之義務。

第 442 條(不動產租賃租金增減請求權)

租賃物為不動產者，因其價值之昇降，當事人得聲請法院增減其租金。但其租賃定有期限者，不在此限。

第 443 條(轉租之效力(一))

承租人非經出租人承諾，不得將租賃物轉租於他人。但租賃物為房屋者，除有反對之約定外，承租人得將其一部分轉租於他人。

承租人違反前項規定，將租賃物轉租於他人者，出租人得終止契約。

第 444 條(轉租之效力(二))

承租人依前條之規定，將租賃物轉租於他人者，其與出租人間之租賃

Article 439

The lessee shall pay the rental at the agreed date and in the absence of such agreed date, according to customs; and in the absence of such agreement or customs, the rental shall be paid at the termination of the lease. If the rental is paid periodically, it shall be paid upon the end of each of the periods. If there is a season for the collection of profits from the thing leased, the rental shall be paid at the end of such season.

Article 440

If the lessee delays paying the rental, the lessor may fix a reasonable deadline and notify him to pay. If the lessee does not pay within such deadline, the lessor may terminate the lease.

If the thing leased is a house, the lease cannot be terminated so long as the total rental in arrears does not correspond to two months, the provisions of the preceding paragraph shall not be applied. The rental is agreed to pay at the commence of the period, the lessor may terminate the lease only as the rental delays paying more than two months.

Leasing for building a house of a land (station), as the total rental in arrears corresponds to two years, the provisions of preceding paragraph shall be applied.

Article 441

The lessee shall not be released from his obligation to pay his rental by the fact that he is prevented from using the thing leased or from collecting profits therefrom, either wholly or partially, through a cause brought about by himself.

Article 442

In case the thing leased is a real property, either party may apply to the court for an increase or reduction of its rental in proportion to the fluctuation of its value, unless the lease is made for a definite period.

Article 443

The lessee shall not sublet the thing leased to another person without the consent of the lessor. But if the thing leased is a house, the lessee may sublet a part of it to another person, unless otherwise agreed upon a contrary intention.

If the lessee sublets the thing leased to another person against the provisions of the preceding paragraph, the lessor may terminate the lease.

Article 444

If the lessee sublets the thing leased to another person in conformity with the provisions of the preceding article, the lease

關係，仍為繼續。
因次承租人應負責之事由所生之損害，承租人負賠償責任。

is still continuous between the lessor and the lessee.
The lessee is bound to compensate for injury arising from circumstances for which the sublessee shall be responsible.

第 445 條(不動產出租人之留置權)

不動產之出租人，就租賃契約所生之債權，對於承租人之物置於該不動產者，有留置權。但禁止扣押之物，不在此限。
前項情形，僅於已得請求之損害賠償及本期與以前未交之租金之限度內，得就留置物取償。

Article 445

The lessor of a real property has for his claim of prestations arising from the lease a right of retention over the movables belonging to the lessee and placed in the real property, thing except those movables which cannot be seized in execution.
In the case of the preceding paragraph, the lessor may compensate himself out of the thing retained only to the extent of those injury he is already entitled to claim for, together with the rental for the present term and for the unpaid past terms.

第 446 條(留置權之消滅與出租人之異議)

承租人將前條留置物取去者，出租人之留置權消滅。但其取去係乘出租人之不知，或出租人曾提出異議者，不在此限。
承租人如因執行業務取去其物，或其取去適於通常之生活關係，或所留之物足以擔保租金之支付者，出租人不得提出異議。

Article 446

The lessor's right of retention as specified in the preceding article is extinguished by the removal of the things to which it applies by the lessee, unless the removal has taken place without the lessor's knowledge or he has objected to such removal.
If the removal takes place in the performance of the business or in ordinary course of life of the lessee, or if the things remaining on the premises are sufficient to secure the payment of the rental, the lessor shall not object to the removal.

第 447 條(出租人之自助權)

出租人有提出異議權者，得不聲請法院，逕行阻止承租人取去其留置物；如承租人離去租賃之不動產者，並得占有其物。

Article 447

The lessor may, even without application to the court, prevent the removal of the things subject to his right of retention, in so far as he is entitled to object to the removal. If the lessee is away from the real property leased, the lessor is entitled to take possession of the things subject to the right of retention.
If the said things have been removed without the knowledge of or in spite of the objection of the lessor, the lessor may terminate the lease.

承租人乘出租人之不知或不顧出租人提出異議而取去其物者，出租人得終止契約。

第 448 條(留置權之消滅 - 提供擔保)

承租人得提出擔保，以免出租人行使留置權，並得提出與各個留置物價值相當之擔保，以消滅對於該物之留置權。

Article 448

The lessee may release the right of retention to exercise by the lessor by furnishing security. He is also entitled to extinguish the right of retention against any individual by furnishing security to the extent proportionate of the value of the thing.

第 449 條(租賃之最長期限)

租賃契約之期限，不得逾二十年。逾二十年者，縮短為二十年。

Article 449

The period of a lease shall not exceed twenty years. If a period longer than twenty years, such period is to be reduced to twenty years.

前項期限，當事人得更新之。

The period specified in the preceding paragraph may be renewed by the parties.

租用基地建築房屋者，不適用第一

Leasing a land (station) for building a house, the provisions of

項之規定。

the first paragraph shall not be applied.

第 450 條(租賃契約之消滅)

租賃定有期限者，其租賃關係，於期限屆滿時消滅。

未定期限者，各當事人得隨時終止契約。但有利於承租人之習慣者，從其習慣。

前項終止契約，應依習慣先期通知。但不動產之租金，以星期、半個月或一個月定其支付之期限者，出租人應以曆定星期、半個月或一個月之末日為契約終止期，並應至少於一星期、半個月或一個月前通知之。

Article 450

When the lease is made for a definite period, the lease terminates at the end of such period.

If no such period has been specified for the termination of the lease, each party may terminate it at any time. However, if customs is in favor of the lessee, such customs shall be followed.

To terminate a lease as specified in the preceding paragraph a notice shall be given in advance according to customs, but if the rental of a real property is payable weekly, fortnightly or monthly, termination is effective only at the end of the calendar week, or fortnight, or month, and a notice shall be given at least one week or fortnight or month in advance.

第 451 條(租賃契約之默示更新)

租賃期限屆滿後，承租人仍為租賃物之使用收益，而出租人不即表示反對之意思者，視為以不定期限繼續契約。

Article 451

If, after the end of the lease, the lessee still continues to use the thing leased or to collect profits therefrom, and the lessor does not immediately express his intent to the contrary, the lease is deemed to be continued for an indefinite period.

第 452 條(因承租人死亡而終止租約)

承租人死亡者，租賃契約雖定有期限，其繼承人仍得終止契約。但應依第四百五十條第三項之規定，先期通知。

Article 452

If the lessee died, his successor may terminate the lease by giving notice in advance according to the provisions of the third paragraph of Article 450, even if the lease was made for a definite period of date.

第 453 條(定期租約之終止)

定有期限之租賃契約，如約定當事人之一方於期限屆滿前，得終止契約者，其終止契約，應依第四百五十條第三項之規定，先期通知。

Article 453

If the lease is made for a definite period and if it is agreed that one of the parties may terminate the lease before its end, a notice of such termination shall be given in advance according to the provisions of the third paragraph of Article 450.

第 454 條(預收租金之返還)

租賃契約，依前二條之規定終止時，如終止後始到期之租金，出租人已預先受領者，應返還之。

Article 454

If the lease is terminated according to the provisions of the two preceding articles, the lessor shall return the rental which he has received in advance for those terms falling due after such termination.

第 455 條(租賃物之返還)

承租人於租賃關係終止後，應返還租賃物；租賃物有生產力者，並應保持其生產狀態，返還出租人。

Article 455

The lessee shall, at the end of the lease, return the thing leased. If the thing leased possesses productivity, he shall return to the lessor and maintain the thing in a state of normal productivity.

第 456 條(消滅時效期間及其起算點)

Article 456

出租人就租賃物所受損害對於承租人之賠償請求權，承租人之償還費用請求權及工作物取回權，均因二年間不行使而消滅。

前項期間，於出租人自受租賃物返還時起算；於承租人，自租賃關係終止時起算。

第 457 條(耕作地租賃之租金減免請求權)

耕作地之承租人，因不可抗力，致其收益減少或全無者，得請求減少或免除租金。
前項租金減免請求權，不得預先拋棄。

第 457-1 條(耕作地預收地租之禁止與承租人得為部分租金之支付)

耕作地之出租人不得預收租金。

承租人不能按期支付應交租金之全部，而以一部份支付時，出租人不得拒絕收受。

第 458 條(耕地租約之終止)

耕作地租賃於租期屆滿前，有左列情形之一時，出租人得終止契約：

- 一、承租人死亡而無繼承人或繼承人無耕作能力者。
- 二、承租人非因不可抗力不為耕作繼續一年以上者。
- 三、承租人將耕作地全部或一部轉租於他人者。
- 四、租金積欠達兩年之總額者。
- 五、耕作地依法編定或變更為非耕作地使用者。

第 459 條(耕地租約之終止)

未定期限之耕作地租賃，出租人除收回自耕外，僅於有前條各款之情形或承租人違反第四百三十二條或第四百六十二條第二項之規定時，得終止契約。

Claims by the lessor against the lessee for compensation for injury caused to the thing leased, and claims by the lessee for the return of expenses, and his right for the removal of the work done to the thing leased, are extinguished by prescription if it is not exercised within two years.

The period as specified in the preceding paragraph commences for the lessor from the date when he accepts the return of the thing leased, and for the lessee from the date of the end of the lease.

Article 457

The lessee of an agricultural land may demand for a reduction or release of the rental, if by reason of force majeure, the profits of the thing leased have decreased or totally failed.

The right to demand for a reduction or release of the rental as specified in the preceding paragraph cannot be waived beforehand.

Article 457-1

The lessor of agricultural land cannot receive the rental in advance.

The lessor shall not refuse to receive, if the lessee fails to pay whole of the rental in accordance with the period instead of paying a part of the rental.

Article 458

The lessor of an agricultural land may terminate the lease before the end of the period of the lease in either of the following circumstance,

- (1) The lessee died without successors or his successors without cultivation ability.
- (2) The lessee has not cultivated for the duration more than one year, it is not by the reason of force majeure.
- (3) The lessee sublets the whole or a part of the agricultural land leased to other.
- (4) The sum of the rental in arrears corresponds to two years.
- (5) The agricultural land has arranged according to the act or changed to be a land not for cultivating.

Article 459

The lease of an agricultural land with an indefinite period, the lessor in addition to restore such land for his own cultivation, may terminate the lease only if in the case specified in each paragraph of preceding article or the lessee acts against the provisions of Article 432, or the provisions of the second paragraph of Article 462.

第 460 條(耕地租約之終止期)

耕作地之出租人終止契約者，應以收益季節後，次期作業開始前之日，為契約之終止期。

Article 460

Termination of the lease made by the lessor of an agricultural land, the end of the lease shall be after the season when the crops are reaped, and before the beginning of the next cultivation.

第 460-1 條(耕作地之優先承買或承典權)

耕作地出租人出賣或出典耕作地時，承租人有依同樣條件優先承買或承典之權。

第四百二十六條之二第二項及第三項之規定，於前項承買或承典準用之。

Article 460-1

The lessor of an agricultural land sell or dian the agricultural land, the lessee is entitled to have a first right of priority to buy or dian it according to the same condition.

The provisions of the second and third paragraph of Article 426-1 shall apply mutatis mutandis to preceding paragraph of buying or dianing.

第 461 條(耕作費用之償還)

耕作地之承租人，因租賃關係終止時未及收穫之孳息所支出之耕作費用，得請求出租人償還之。但其請求額不得超過孳息之價額。

Article 461

If the lessee of an agricultural land has incurred expenses of the cultivation of crops which are not yet to be reaped after the termination of the lease, he may demand the return of such expenses from the lessor, however, provided that his claim shall not exceed the value of such crops.

第 461-1 條(承租人對耕作地之特別改良)

耕作地承租人於保持耕作地之原有性質及效能外，得為增加耕作地生產力或耕作便利之改良。但應將改良事項及費用數額，以書面通知出租人。

前項費用，承租人返還耕作地時，得請求出租人返還。但以其未失效能部分之價額為限。

Article 461-1

The lessee of an agricultural land in addition to maintain the original nature and efficiency of the agricultural land, he may raise the production of the agricultural land or improve a handy cultivation. However, he shall notify the entries of improvement and the sum of expense to the lessor in writing.

The lessee may demand the lessor to return the expense specified in the preceding paragraph, when the lessee return the agricultural land. However, the price is limited to the part which hasn't lost its utility.

第 462 條(耕作地附屬物之範圍及其補充)

耕作地之租賃，附有農具、牲畜或其他附屬者，當事人應於訂約時，評定其價值，並繕具清單，由雙方簽名，各執一份。

清單所載之附屬物，如因可歸責於承租人之事由而滅失者，由承租人負補充之責任。

附屬物如因不可歸責於承租人之事由而滅失者，由出租人負補充之責任。

Article 462

When agricultural implements, livestock, and other accessories are leased together with an agricultural land, an inventory of the same, showing their individual value at the time of the conclusion of the lease, shall be made in duplicate, and signed by the parties. Each party shall keep a copy of it.

If any of the accessories mentioned in the inventory be destroyed through a circumstance for which the lessee is responsible, the lessee is bound to supply substitutes.

Should it be destroyed through a circumstance for which the lessee is not responsible, the lessor is bound to supply substitutes.

第 463 條(耕作地附屬物之返還)**Article 463**

耕作地之承租人依清單所受領之附屬物，應於租賃關係終止時，返還於出租人；如不能返還者，應賠償其依清單所定之價值。但因使用所生之通常折耗，應扣除之。

The lessee of an agricultural land who has received accessories according to an inventory shall return them to the lessor at the end of the lease. If he fails to do so, he shall compensate for their value according to the said inventory, except it shall be deducted from ordinary wear and tear, resulting from their use.

第 463-1 條(權利租賃之準用)

本節規定，於權利之租賃準用之。

Article 463- 1

The provisions of this section shall apply mutatis mutandis to a lease of a right.

第六節 借貸

Section 6 – Loan

第一款 使用借貸

Sub-section 1 Loan for Use

第 464 條(使用借貸之定義)

稱使用借貸者，謂當事人一方以物交付他方，而約定他方於無償使用後返還其物之契約。

Article 464

A contract of loan for use is a contract whereby one of parties shall deliver a thing to the other, and agrees that the latter shall return the thing after gratuitously using it.

第 465 條

(刪除)

Article 465

(Repealed)

第 465-1 條(使用借貸之預約)

使用借貸預約成立後，預約貸與人得撤銷其約定。但預約借用人已請求履行預約而預約貸與人未即時撤銷者，不在此限。

Article 465- 1

After an agreement on constituting a contract of a loan for use, the lender of the agreement may revoke such agreement. Unless otherwise the borrower of the agreement has demanded to perform the agreement and the lender of the agreement hasn't revoked immediately.

第 466 條(貸與人之責任)

貸與人故意不告知借用物之瑕疵，致借用人受損害者，負賠償責任。

Article 466

If the lender intentionally conceals a defect in the thing lent, he is responsible to the borrower for any injury resulting therefrom.

第 467 條(依約定方法使用借用物義務)

借用人應依約定方法，使用借用物；無約定方法者，應以依借用物之性質而定之方法使用之。

借用人非經貸與人之同意，不得允許第三人使用借用物。

Article 467

The borrower shall use the thing lent in the ways as are agreed upon, if in the absence of such agreement, in the ways as are in accordance with the nature of the thing lent. The borrower shall not allow a third party to use the thing lent without the consent of the lender.

第 468 條(借用人之保管義務)

借用人應以善良管理人之注意，保管借用物。

借用人違反前項義務，致借用物毀損、滅失者，負損害賠償責任。但依約定之方法或依物之性質而定

Article 468

The borrower shall preserve the thing lent with the care of a good administrator.

If the borrower violates the provision of the preceding paragraph whereby damage or destruction has been caused to the thing lent, he is bound to compensate therefrom. However,

之方法使用借用物，致有變更或毀損者，不負責任。

he is not responsible for any change or damage brought about through use of the thing lent in the ways as are agreed upon or as are in accordance with the nature of the thing.

第 469 條(通常保管費之負擔及工作物之取回)

借用物之通常保管費用，由借用人負擔。借用物為動物者，其飼養費亦同。

借用人就借用物支出有益費用，因而增加該物之價值者，準用第四百三十一條第一項之規定。

借用人就借用物所增加之工作物，得取回之。但應回復借用物之原狀。

Article 469

The borrower is bound to bear the ordinary expenses for the maintenance of the thing lent. The same rule shall apply to the cost of provender in the case of a loan of animals.

If the borrower incurs any beneficial outlays for the thing lent in consequence of increasing the value of the thing lent, the provisions of the first paragraph of Article 431 shall be mutatis mutandis applied.

The borrower may remove any additions to the thing lent which he has made, unless he shall restore the thing lent to its status quo ante.

第 470 條(借用人返還借用物義務)

借用人應於契約所定期限屆滿時，返還借用物；未定期限者，應於依借貸之目的使用完畢時返還之。但經過相當時期，可推定借用人已使用完畢者，貸與人亦得為返還之請求。

借貸未定期限，亦不能依借貸之目的而定其期限者，貸與人得隨時請求返還借用物。

Article 470

The borrower shall return the thing lent at the end of the agreed period. If no such period is agreed upon, the thing shall be returned after the borrower has made use of it for the purposes of the loan. However, the lender may also demand the return of the thing lent when a reasonable period has elapsed and it may be presumed that the borrower did make use of it.

If an indefinite period of a loan and cannot be inferred from the purposes of the loan, the lender may demand the return of the thing lent at any time.

第 471 條(借用人之連帶責任)

數人共借一物者，對於貸與人，連帶負責。

Article 471

When several persons have borrowed a thing together, they are jointly responsible to the lender.

第 472 條(貸與人之終止契約權)

有左列各款情形之一者，貸與人得終止契約：

- 一、貸與人因不可預知之情事，自己需用借用物者。
- 二、借用人違反約定或依物之性質而定之方法使用借用物，或未經貸與人同意允許第三人使用者。

三、因借用人怠於注意，致借用物毀損或有毀損之虞者。

四、借用人死亡者。

Article 472

The lender may terminate the loan in either of the following circumstances:

- (1) If he needs the thing lent in consequence of an unforeseen circumstances.
- (2) If the borrower uses the thing lent otherwise than for the agreed use or for the ordinary uses in accordance with the nature of the thing, or allows a third party to use it without the consent of the lender.
- (3) If the borrower causes damage or danger of damage to the thing lent by neglecting to take care of it.
- (4) If the borrower died.

第 473 條(消滅時效期間及其起算)

貸與人就借用物所受損害，對於借用人之賠償請求權、借用人依第四百六十六條所定之賠償請求權、第

Article 473

A claim for damages by the lender for injury caused to the thing lent, a claim for damages by the borrower in accordance with the provisions of Article 466, a claim for the return of beneficial

四百六十九條所定有益費用償還請求權及其工作物之取回權，均因六個月間不行使而消滅。

前項期間，於貸與人，自受借用物返還時起算。於借用人，自借貸關係終止時起算。

outlays specified provisions of Article 469 and the borrower's right to remove any addition from the thing lent, are extinguished by prescription if it is not exercised within six months.

The period specified under the preceding paragraph commences for the lender from the date when he accepts the return of the thing lent and for the borrowers from the date of the termination of the contract.

第二款 消費借貸

Sub-section 2 LOANS FOR CONSUMPTION

第 474 條(消費借貸之定義)

稱消費借貸者，謂當事人一方移轉金錢或其他代替物之所有權於他方，而約定他方以種類、品質、數量相同之物返還之契約。

當事人一方對他方負金錢或其他代替物之給付義務而約定以之作為消費借貸之標的者，亦成立消費借貸。

Article 474

A contract of loan for consumption is a contract whereby one of the parties shall transfer to the other the ownership of money or other fungible things, and the parties agree that the latter shall return things of the same kind, quality and quantity.

If one of the parties is responsible to the other for the payment of money or other fungible things and the parties agree that it is to be the object of loan for consumption, a contract of loan for consumption is also constituted.

第 475 條

(刪除)

Article 475

(Repealed)

第 475-1 條(消費借貸之預約)

消費借貸之預約，其約定之消費借貸有利息或其他報償，當事人一方於預約成立後，成為無支付能力者，預約貸與人得撤銷其預約。

消費借貸之預約，其約定之消費借貸為無報償者，準用第四百六十五條之一之規定。

Article 475-1

An agreement on constituting a contract of a loan for consumption, if interest or other remuneration has been agreed upon for a loan for consumption, one of the parties becomes incapable to pay after the agreement on constituting a contract of a loan for consumption constituted, the lender of the agreement may revoke such agreement.

An agreement on constituting a contract of a loan for consumption, if without remuneration has been agreed upon for a loan for consumption, the provisions of Article 465-1 shall be mutatis mutandis applied,

第 476 條(物之瑕疵擔保責任)

消費借貸，約定有利息或其他報償者，如借用物有瑕疵時，貸與人應另易以無瑕疵之物。但借用人仍得請求損害賠償。

消費借貸為無報償者，如借用物有瑕疵時，借用人得照有瑕疵原物之價值，返還貸與人。

前項情形，貸與人如故意不告知其瑕疵者，借用人得請求損害賠償。

Article 476

When interest or other remuneration has been agreed upon for a loan for consumption and if the thing lent is defective, the lender shall exchange it for another free from defect. However, the borrower may still demand for the injury.

When the loan for consumption is gratuitous and if the thing lent is defective, the borrower may return to the lender the value which the defective thing had.

In the case of the preceding paragraph, the borrower may still demand for the injury if the lender has intentionally concealed the defect.

第 477 條(消費借貸報償之支付時

Article 477

期)

利息或其他報償，應於契約所定期限支付之；未定期限者，應於借貸關係終止時支付之。但其借貸期限逾一年者，應於每年終支付之。

Interest or other remuneration shall be paid within the agreed deadline. If no such deadline has been specified, it shall be paid at the end of the loan; unless, the duration of the loan is for over one year, it shall be paid at the end of each year.

第 478 條(借用人返還借用物義務)

借用人應於約定期限內，返還與借用物種類、品質、數量相同之物，未定返還期限者，借用人得隨時返還，貸與人亦得定一個月以上之相當期限，催告返還。

Article 478

The borrower shall return things of the same kind, quality and quantity as lent, within the agreed deadline. If no such deadline for return has been agreed upon, the borrower may return them at any time; the lender may also fix a reasonable deadline, not less than one month later, and notify the borrower to return.

第 479 條(返還不能之補償)

借用人不能以種類、品質、數量相同之物返還者，應以其物在返還時、返還地所應有之價值償還之。返還時或返還地未約定者，以其物在訂約時或訂約地之價值償還之。

Article 479

If the borrower cannot return things of the same kind, quality and quantity as lent, he shall return their value at the time and place where the return ought to have taken place. If no date or place of return has been agreed upon, such things are returned according to the value of the things at the time when, or place where they were when the contract was constituted.

第 480 條(金錢借貸之返還)

金錢借貸之返還，除契約另有訂定外，應依左列之規定：

- 一、以通用貨幣為借貸者，如於返還時已失其通用效力，應以返還時有通用效力之貨幣償還之。
- 二、金錢借貸，約定折合通用貨幣計算者，不問借用人所受領貨幣價格之增減，均應以返還時有通用效力之貨幣償還之。
- 三、金錢借貸，約定以特種貨幣為計算者，應以該特種貨幣，或按返還時、返還地之市價，以通用貨幣償還之。

Article 480

Unless otherwise provided by contract, the following rules shall apply for the return of money loaned:

- (1) When the money loaned is a currency which is no longer in vogue at the time of return, it shall be returned in a currency which is in vogue at the time of return.
- (2) A loan which is agreed to be calculated in a currency in vogue shall be returned in a currency in vogue at the time of return, irrespective of the fluctuation in the value of the currency which the borrower may have received.
- (3) If a loan is agreed to be calculated in a particular kind of currency, it shall be returned in the particular kind of currency or in a currency in vogue according to the market price at the time and place of return.

第 481 條(貨物折算金錢之消費借貸)

以貨物或有價證券折算金錢而為借貸者，縱有反對之約定，仍應以該貨物或有價證券按照交付時交付地之市價所應有之價值，為其借貸金額。

Article 481

Notwithstanding any agreement to the contrary, if a loan of money is converted from goods or valuable securities, a sum of the loan shall be in accordance with the market value of the goods or valuable securities at the time and place of delivery.

第七節 僱傭**Section 7 - Hire of Services****第 482 條(僱傭之定義)**

稱僱傭者，謂當事人約定，一方於

Article 482

A contract of hire of services is a contract whereby the parties

一定或不定之期限內為他方服勞務，他方給付報酬之契約。

agree that one of them shall service for a fixed or undefined period to the other party, and the latter shall pay remuneration.

第 483 條(報酬及報酬額)

如依情形，非受報酬即不服勞務者，視為允與報酬。

Article 483

Remuneration is deemed to have been agreed upon, if according to the circumstances the service is not to take place without remuneration.

未定報酬額者，按照價目表所定給付之；無價目表者，按照習慣給付。

If the amount of the remuneration is not agreed upon, the remuneration shall be paid according to a tariff. If there is not the tariff, the remuneration shall be paid according to customs.

第 483-1 條(僱用人對受僱人之保護義務)

受僱人服勞務，其生命、身體、健康有受危害之虞者，僱用人應按其情形為必要之預防。

Article 483- 1

The employee performs the services, under circumstances his life, body, health may be endangered, the employer shall prevent by necessary means according to such circumstance.

第 484 條(勞務之專屬性)

僱用人非經受僱人同意，不得將其勞務請求權讓與第三人，受僱人非經僱用人同意，不得使第三人代服勞務。

Article 484

The employer shall not transfer his right of the services to a third party without the consent of the employee, and the employee cannot make a third party perform the services in his place without the consent of the employer.

當事人之一方違反前項規定時，他方得終止契約。

If either party violates the provision of the preceding paragraph, the other party may terminate the contract.

第 485 條(特種技能之保證)

受僱人明示或默示保證其有特種技能時，如無此種技能時，僱用人得終止契約。

Article 485

If the employee either expressly or impliedly warrants that he has special skill, the employer may terminate the contract if without such skill.

第 486 條(報酬給付之時期)

報酬應依約定之期限給付之；無約定者，依習慣；無約定亦無習慣者，依左列之規定：

Article 486

The remuneration shall be paid at the agreed deadline, if, in the absence of an agreement, according to customs. In the absence of an agreement and customs, the following rules shall be applied:

一、報酬分期計算者，應於每期屆滿時給付之。

(1) If the remuneration is fixed by periods, it shall be paid at the end of each period.

二、報酬非分期計算者，應於勞務完畢時給付之。

(2) If the remuneration is not fixed by periods, it shall be paid at the end of the services.

第 487 條(受領遲延之報酬請求)

僱用人受領勞務遲延者，受僱人無補服勞務之義務，仍得請求報酬。但受僱人因不服勞務所減省之費用，或轉向他處服勞務所取得，或故意怠於取得之利益，僱用人得由報酬額內扣除之。

Article 487

If the employer delays accepting the services, the employee may demand for his remuneration without being bound to perform the service subsequently. The employer may, however, deduct from the amount of the remuneration the expenses that the employee has saved by non-performance and what the employee has gained, or could have gained but for his intentional omission, by performing services to other persons.

第 487-1 條(受僱人之請求賠償)

受僱人服勞務，因非可歸責於自己之事由，致受損害者，得向僱用人請求賠償。

前項損害之發生，如別有應負責任之人時，僱用人對於該應負責者，有求償權。

Article 487- 1

When employee performing the services incurs an injury, he may demand to the employer for the injury, if, owing to circumstance for which he is not responsible.

If there is someone else who shall be responsible for the injury prescribed in the preceding paragraph, the employer may make a claim against this person for reimbursement.

第 488 條(僱傭關係之消滅(一) - 屆期與終止契約)

僱傭定有期限者，其僱傭關係，於期限屆滿時消滅。

僱傭未定期限，亦不能依勞務之性質或目的定其期限者，各當事人得隨時終止契約。但有利於受僱人之習慣者，從其習慣。

Article 488

If the duration of hire of services is fixed, the contract of hire of services terminates with the end of that duration.

If the duration of hire of services is not fixed or can not be fixed in accordance with the nature or purpose of services, either party may terminate the contract at any time, however, if customs is in favor of the employee, such customs shall be followed.

第 489 條(僱傭關係之消滅(二) - 遇重大事由之終止)

當事人之一方，遇有重大事由，其僱傭契約，縱定有期限，仍得於期限屆滿前終止之。

前項事由，如因當事人一方之過失而生者，他方得向其請求損害賠償。

Article 489

Even though the duration of the hire of services has been agreed upon, either party may, in the event of any serious occurrence, terminate the contract before the end of such duration.

If the occurrence as specified in the preceding paragraph be due to the negligence of one of the parties, the other party may demand for the injury from him.

第八節 承攬**Section 8 - Hire of Work****第 490 條(承攬之定義)**

稱承攬者，謂當事人約定，一方為他方完成一定之工作，他方俟工作完成，給付報酬之契約。

約定由承攬人供給材料者，其材料之價額，推定為報酬之一部。

Article 490

A contract of hire of work is a contract whereby the parties agrees one of them complete a definite work for the other party, who pays him remuneration after the completion of the work.

The value of the materials is presumed to be part of remuneration whereby the parties agree that the undertaker provides the materials.

第 491 條(承攬之報酬)

如依情形，非受報酬即不為完成其工作者，視為允與報酬。

未定報酬額者，按照價目表所定給付之；無價目表者，按照習慣給付。

Article 491

Remuneration is deemed to have been agreed upon, if according to the circumstances the completion of the work is not to take place without remuneration.

If the amount of the remuneration is not agreed upon, the remuneration shall be paid according to a tariff. If there is no such tariff, the remuneration shall be paid according to customs.

第 492 條(物之瑕疵擔保責任)

承攬人完成工作，應使其具備約定之品質及無減少或減失價值或不適於通常或約定使用之瑕疵。

Article 492

The undertaker shall complete the work in such a manner that the result has the agreed qualities and doesn't be affected with defects which destroy or reduce its value or its fitness for

ordinary purposes or for the purposes agreed in the contract.

第 493 條(瑕疵擔保之效力(一) - 瑕疵修補) **Article 493**

工作有瑕疵者，定作人得定相當期限，請求承攬人修補之。

承攬人不於前項期限內修補者，定作人得自行修補，並得向承攬人請求償還修補必要之費用。

如修補所需費用過鉅者，承攬人得拒絕修補，前項規定，不適用之。

If there is any defect in the work, the proprietor may fix a reasonable period and demand the undertaker to repair the defect within such period.

If the undertaker fails to repair the defect within the period specified in the preceding paragraph, the proprietor himself may repair the defect and demand to the undertaker for the return of the necessary expenses arising therefrom.

If the repair of the defect would require a disproportionate outlay, the undertaker may refuse to repair the defect, and the provisions of the preceding paragraph shall not be applied.

第 494 條(瑕疵擔保之效力(二) - 解約或減少報酬) **Article 494**

承攬人不於前條第一項所定期限內修補瑕疵，或依前條第三項之規定拒絕修補或其瑕疵不能修補者，定作人得解除契約或請求減少報酬。但瑕疵非重要，或所承攬之工作為建築物或其他土地上之工作物者，定作人不得解除契約。

When the undertaker fails to repair the defect within the period specified in the first paragraph of the preceding article, or refuses to repair the defect according to the provisions of the third paragraph of the preceding article, or the defect cannot be repaired, the proprietor may rescind the contract or demand a reduction of the remuneration. If, however, the defect is not important, or if the contract is for the construction of a building or other works on land, the proprietor shall not rescind the contract.

第 495 條(瑕疵擔保之效力 - 損害賠償) **Article 495**

因可歸責於承攬人之事由，致工作發生瑕疵者，定作人除依前二條之規定，請求修補或解除契約，或請求減少報酬外，並得請求損害賠償。

前項情形，所承攬之工作為建築物或其他土地上之工作物，而其瑕疵重大致不能達使用之目的者，定作人得解除契約。

When the defect of work occurred is due to circumstances for which the undertaker is responsible, the proprietor may demand the injury arising therefrom in addition to the repair of the defect, or the rescission of the contract, or the reduction of the remuneration as specified in the two preceding articles.

In the case specified in the preceding paragraph, if the contract is for the construction of a building or other works on land, and the defect is serious so that cannot use for the purpose, the proprietor may rescind the contract

第 496 條(瑕疵擔保責任之免除) **Article 496**

工作之瑕疵，因定作人所供給材料之性質或依定作人之指示而生者，定作人無前三條所規定之權利。但承攬人明知其材料之性質或指示不適當，而不告知定作人者，不在此限。

If the defect of the work is due to the nature of the materials provided by the proprietor, or to proprietor's instructions, the proprietor does not have the rights under the three preceding articles, unless the undertaker knew of the nature of the materials or of the inappropriate instructions and failed to notify to the proprietor.

第 497 條(瑕疵預防請求權) **Article 497**

工作進行中，因承攬人之過失，顯

If it is due to the undertaker's own negligence, in the process of

可預見工作有瑕疵或有其他違反契約之情事者，定作人得定相當期限，請求承攬人改善其工作或依約履行。

承攬人不於前項期限內，依照改善或履行者，定作人得使第三人改善或繼續其工作，其危險及費用，均由承攬人負擔。

the work, it clearly appears that the work will be defective or other circumstances violates the contract, the proprietor may fix a reasonable period and demand the undertaker to mend the work or to comply with the contract within such period.

If the undertaker fails to mend the work or comply with the contract within the period specified in the preceding paragraph, the proprietor may mend the defect or have the work continued by a third party, the undertaker is bound to take the dangers and expenses.

第 498 條(一般瑕疵發見期間 - 瑕疵擔保期間)

第四百九十三條至第四百九十五條所規定定作人之權利，如其瑕疵自工作交付後經過一年始發見者，不得主張。

工作依其性質無須交付者，前項一年之期間，自工作完成時起算。

Article 498

The rights of the proprietor as specified in Articles 493 to 495 shall not be asserted if the defects have not been discovered within one year after the delivery of the work.

If by reason of the nature of the work, no delivery can take place, the one year period specified as the preceding paragraph commences from the completion of the work.

第 499 條(土地上工作物瑕疵發見期間 - 瑕疵擔保期間)

工作為建築物或其他土地上之工作物或為此等工作物之重大之修繕者，前條所定之期限，延為五年。

Article 499

In the case of the construction of a building or other works on land, and of vital repairs to the said building or works, the deadline specified in the preceding article shall be extended to five years.

第 500 條(瑕疵發見期間之延長)

承攬人故意不告知其工作之瑕疵者，第四百九十八條所定之期限，延為五年，第四百九十九條所定之期限，延為十年。

Article 500

The deadlines specified in Articles 498, and 499 are extended to five years and ten years respectively in case of the defects of the work which the undertaker has intentionally concealed.

第 501 條(瑕疵發見期間之強制性)

第四百九十八條及第四百九十九條所定之期限，得以契約加長。但不得減短。

Article 501

The deadlines specified in Articles 498 and 499 may be extended by agreement between the parties but they shall not be reduced.

第 501-1 條(特約免除承攬人瑕疵擔保義務之例外)

以特約免除或限制承攬人關於工作之瑕疵擔保義務者，如承攬人故意不告知其瑕疵，其特約為無效。

Article 501- 1

An agreement releasing or limiting the undertaker of his warranty of defects in the work is void if the undertaker has intentionally concealed the defect.

第 502 條(完成工作延遲之效果)

因可歸責於承攬人之事由，致工作逾約定期限始完成，或未定期限而逾相當時期始完成者，定作人得請求減少報酬或請求賠償因遲延而

Article 502

If, owing to circumstances for which the undertaker is responsible, the work is completed not within the agreed deadline, or, in the absence of such agreement, or not within a reasonable deadline, the proprietor may demand a reduction in

生之損害。

前項情形，如以工作於特定期限完成或交付為契約之要素者，定作人得解除契約，並得請求賠償因不履行而生之損害。

第 503 條(期前遲延之解除契約)

因可歸責於承攬人之事由，遲延工作，顯可預見其不能於限期內完成而其遲延可為工作完成後解除契約之原因者，定作人得依前條第二項之規定解除契約，並請求損害賠償。

第 504 條(遲延責任之免除)

工作遲延後，定作人受領工作時不為保留者，承攬人對於遲延之結果，不負責任。

第 505 條(報酬給付之時期)

報酬應於工作交付時給付之，無須交付者，應於工作完成時給付之。工作係分部交付，而報酬係就各部分定之者，應於每部分交付時，給付該部分之報酬。

第 506 條(實際報酬超過預估概數甚鉅時之處理)

訂立契約時，僅估計報酬之概數者，如其報酬因非可歸責於定作人之事由，超過概數甚鉅者，定作人得於工作進行中或完成後，解除契約。

前項情形，工作如為建築物或其他土地上之工作物或為此等工作物之重大修繕者，定作人僅得請求相當減少報酬，如工作物尚未完成者，定作人得通知承攬人停止工作，並得解除契約。

定作人依前二項之規定解除契約時，對於承攬人，應賠償相當之損害。

第 507 條(定作人之協力義務)

工作需定作人之行為始能完成者，而定作人不為其行為時，承攬

the remuneration or for the injury arising by the delay.

In the case specified in the preceding paragraph, if completion or delivery of the work at a fixed deadline is an essential element of the contract, the proprietor may rescind the contract and demand for the injury arising from failing to perform.

Article 503

If, owing to circumstances for which the undertaker is responsible, the work is delayed in such a manner that it can be foreseen that it cannot be completed within the deadline and the delay be such as would have entitled him to rescind the contract after the work is completed, the proprietor may rescind the contract according to the provisions of the second paragraph of preceding article, and demand for the injury.

Article 504

The undertaker is not liable for the consequences of delay, if the proprietor has accepted the work after the delay without reservation.

Article 505

The remuneration shall be paid at the time of delivery of the work, or, if no delivery can take place, shall be paid at the time of its completion. If the work is to be delivered in parts and a separate remuneration has been specified for each separate part, the remuneration for each part shall be paid at the time of its delivery.

Article 506

If, at the time of the making of the contract, only an approximate estimate has been made for remuneration, and if, owing to circumstances for which the proprietor is not responsible, the remuneration will greatly exceed the estimate, the proprietor may rescind the contract either during the execution of the work or after its completion.

In the case specified in the preceding paragraph if the contract is for the construction of a building or other works executed on land, or for vital repairs of the said building or works, the proprietor may only demand for a reasonable reduction of the remuneration; or, if the work is not completed, he may notify the undertaker to cease the work and may rescind the contract.

When the proprietor rescinds the contract in accordance with the provisions of the two preceding paragraphs, he shall compensate reasonably to the undertaker for the injury.

Article 507

If an action of the proprietor is necessary for the execution of the work and the proprietor fails to do it, the undertaker may fix

人得定相當期限，催告定作人為之。

定作人不於前項期限內為其行為者，承攬人得解除契約，並得請求賠償因契約解除而生之損害。

a reasonable deadline and notify the proprietor to do the action within such deadline.

If the proprietor fails to do the action within the deadline specified in the preceding paragraph, the undertaker may rescind the contract, and demand for the injury arising therefrom.

第 508 條(危險負擔)

工作毀損、滅失之危險，於定作人受領前，由承攬人負擔，如定作人受領遲延者，其危險由定作人負擔。

定作人所供給之材料，因不可抗力而毀損、滅失者，承攬人不負其責。

Article 508

The undertaker takes the danger of damage or destruction of the work before its acceptance by the proprietor. If the proprietor delays accepting such work, the danger passes on to him.

The undertaker is not responsible for loss or destruction by force majeure of materials provided by the proprietor.

第 509 條(可歸責於定作人之履行不能)

於定作人受領工作前，因其所供給材料之瑕疵或其指示不適當，致工作毀損、滅失或不能完成者，承攬人如及時將材料之瑕疵或指示不適當之情事通知定作人時，得請求其已服務勞之報酬及墊款之償還，定作人有過失者，並得請求損害賠償。

Article 509

If, before the proprietor accepts the work, which is damaged or destroyed, or cannot be completed on account of the defects in the materials provided by him or on account of his inappropriate instructions, and if the undertaker has, immediately, notified the proprietor of such defects or such inappropriate instructions, the undertaker may demand for a part of the remuneration proportionate to the labor performed, and the return of the expenses paid in advance. The undertaker may also demand for further injury if the proprietor is negligent.

第 510 條(視為受領工作)

前二條所定之受領，如依工作之性質，無須交付者，以工作完成時視為受領。

Article 510

In the case of acceptance specified as provisions of the two preceding articles, if the nature of the work, no delivery can take place, the time of completion of the work is deemed to be the time of acceptance.

第 511 條(定作人之終止契約)

工作未完成前，定作人得隨時終止契約。但應賠償承攬人因契約終止而生之損害。

Article 511

The proprietor may terminate the contract at any time before the completion of the work, however, he shall compensate to the undertaker for any injury resulting from such termination.

第 512 條(承攬契約之當然終止)

承攬之工作，以承攬人個人之技能為契約之要素者，如承攬人死亡或非因其過失致不能完成其約定之工作時，其契約為終止。

工作已完成之部分，於定作人為有用者，定作人有受領及給付相當報酬之義務。

Article 512

If the personal skill of the undertaker is an essential element of the contract, the contract terminates when the undertaker died or when without his own negligence he becomes incapable of completing the work agreed upon.

If a part of the work has already done which is useful to the proprietor, he is bound to accept it and to pay a reasonable remuneration for it.

第 513 條(承攬人之法定抵押權)

Article 513

承攬之工作為建築物或其他土地上之工作物，或為此等工作物之重大修繕者，承攬人得就承攬關係報酬額，對於其工作所附之定作人之不動產，請求定作人為抵押權之登記；或對於將來完成之定作人之不動產，請求預為抵押權之登記。

前項請求，承攬人於開始工作前亦得為之。

前二項之抵押權登記，如承攬契約已經公證者，承攬人得單獨申請之。

第一項及第二項就修繕報酬所登記之抵押權，於工作物因修繕所增加之價值限度內，優先於成立在先之抵押權。

第 514 條(權利行使之期間)

定作人之瑕疵修補請求權、修補費用償還請求權、減少報酬請求權、損害賠償請求權或契約解除權，均因瑕疵發見後一年間不行使而消滅。

承攬人之損害賠償請求權或契約解除權，因其原因發生後，一年間不行使而消滅。

第八節之一 旅遊

第 514-1 條(旅遊營業人之定義)

稱旅遊營業人者，謂以提供旅客旅遊服務為營業而收取旅遊費用之人。

前項旅遊服務，係指安排旅程及提供交通、膳宿、導遊或其他有關之服務。

第 514-2 條(旅遊書面之規定)

旅遊營業人因旅客之請求，應以書面記載左列事項，交付旅客：

- 一、旅遊營業人之名稱及地址。
- 二、旅客名單。
- 三、旅遊地區及旅程。
- 四、旅遊營業人提供之交通、膳宿、導遊或其他有關服務及其品質。
- 五、旅遊保險之種類及其金額。

When the contract of hire of work is for the construction of a building or other works on land or for vital repairs on such building or works, the undertaker in accordance with the remuneration of the relation of hire of work on the real property of the proprietor upon which the work is done, may demand the proprietor to register a right of mortgage, or may demand to register a right of mortgage in advance to the real property of the proprietor which will be done in the future.

The demand specified in the preceding paragraph, the undertaker may also do it before the work commences.

The register of a right of mortgage specified in the two preceding paragraphs, if the contract of hire of work has been notarized, the undertaker may apply himself.

In the case of the first and second preceding paragraphs, a right of mortgage registered in accordance with the remuneration of repairing, up to the extent of the value of the work increased by repairing, is superior to the mortgage registered earlier.

Article 514

The right of the proprietor to demand for the repair of a defect, or for the return of expenses made for the repair of defect, or for a reduction of the remuneration, or for the injury, or for a rescission of the contract, is extinguished by prescription if it is not exercised within one year from the discovery of the defect.

The right of the undertaker to demand for the injury or to rescind the contract is extinguished by prescription if it is not exercised within one year from the occurrence of the causes on which such demand is based.

Section 8-1 Travel

Article 514- 1

A tourist agency is a person who carries on a business of providing a travel service for traveler and receives the expense of the travel.

The travel service specified in the preceding paragraph is to arrange an itinerary, provide communications, provide board and lodging, and a tour guide or other service.

Article 514- 2

A tourist agency shall, according to the traveler's request, draw up the following entries in writing to the traveler:

- (1)The name and address of a tourist agency;
- (2) A roll of traveler;
- (3) A travel district and an itinerary;
- (4) A tourist agency provides communications, board and lodging, a tour guide or other service and its quality;
- (5) What kind of travel insurance and its price;

- 六、其他有關事項。
七、填發之年月日。

- (6) Other entries;
(7) The date of filling in it.

第 514-3 條(旅客之協力義務)

旅遊需旅客之行為始能完成，而旅客不為其行為者，旅遊營業人得定相當期限，催告旅客為之。

旅客不於前項期限內為其行為者，旅遊營業人得終止契約，並得請求賠償因契約終止而生之損害。旅遊開始後，旅遊營業人依前項規定終止契約時，旅客得請求旅遊營業人墊付費用將其送回原出發地。於到達後，由旅客附加利息償還之。

Article 514- 3

If an action of the traveler is necessary for the travel and the traveler fails to do it, the tourist agency may fix a reasonable deadline and notify the traveler to do the action within such deadline.

If the traveler fails to do the action within the deadline specified in the preceding paragraph, the tourist agency may rescind the contract, and demand for the injury arising therefrom.

After the travel has commenced, if the tourist agency rescind the contract according to the preceding paragraph, the traveler may demand the tourist agency to pay the expense in advance for sending them to the original place where they started off. The traveler shall return it with interest after he arrives.

第 514-4 條(第三人參加旅遊)

旅遊開始前，旅客得變更由第三人參加旅遊。旅遊營業人非有正當理由，不得拒絕。

第三人依前項規定為旅客時，如因增加費用，旅遊營業人得請求其給付。如減少費用，旅客不得請求退還。

Article 514- 4

Before the travel starts, the traveler may change to the third party instead to join in the travel. The tourist agency shall not refuse without good causes.

If the third party is being a traveler according to the provision of the preceding paragraph, and the expense increases resulting therefrom, the tourist agency may demand him to pay. If the expense reduces, the traveler shall not demand to return.

第 514-5 條(變更旅遊內容)

旅遊營業人非有不得已之事由，不得變更旅遊內容。

旅遊營業人依前項規定變更旅遊內容時，其因此所減少之費用，應退還於旅客；所增加之費用，不得向旅客收取。

旅遊營業人依第一項規定變更旅程時，旅客不同意者，得終止契約。

旅客依前項規定終止契約時，得請求旅遊營業人墊付費用將其送回原出發地。於到達後，由旅客附加利息償還之。

Article 514- 5

The tourist agency shall not change the content of the travel without unavoidable circumstances.

If the tourist agency changes the content of the travel according to the provision of the preceding paragraph, he shall return the reduction of the expense to the traveler; he cannot gather the increase of the expense to the traveler.

If the tourist agency changes the itinerary of the travel according to the provision of the first paragraph, the traveler may terminate the contract if he doesn't consent it.

If the traveler terminates the contract according to the provision of the preceding paragraph, he may demand the tourist agency to pay the expense in advance for sending them to the original place where they started off. The traveler shall return it with interest after he arrives.

第 514-6 條(旅遊服務之品質)

旅遊營業人提供旅遊服務，應使其具備通常之價值及約定之品質。

Article 514- 6

The travel service provided by the tourist agency shall have ordinary value and the agreed qualities.

第 514-7 條(旅遊營業人之瑕疵擔保責任)

旅遊服務不具備前條之價值或品

Article 514- 7

If the travel service doesn't have the value and quality specified

質者，旅客得請求旅遊營業人改善之。旅遊營業人不為改善或不能改善時，旅客得請求減少費用。其有難於達預期目的之情形者，並得終止契約。

因可歸責於旅遊營業人之事由致旅遊服務不具備前條之價值或品質者，旅客除請求減少費用或並終止契約外，並得請求損害賠償。

旅客依前二項規定終止契約時，旅遊營業人應將旅客送回原出發地。其所生之費用，由旅遊營業人負擔。

in the preceding paragraph, the traveler may request the tourist agency to improve it. If the tourist service doesn't improve or cannot improve, the traveler may demand for the reduction of the expense, if, under the circumstance it's hard to reach the purpose of expectation, the traveler may terminate the contract.

If, owing to circumstances for which the tourist agency is responsible to the travel service lacking the value or quality specified in the preceding paragraph, the travel may in addition to demand for the reduction of the expense or the termination of the contract, may demand for the injury.

If the traveler terminates the contract according to the provisions of the preceding two paragraphs, the tourist agency shall send the traveler to the original place where they started off. The tourist agency is bound to pay the expense resulting therefrom.

第 514-8 條(旅遊時間浪費之求償)

因可歸責於旅遊營業人之事由，致旅遊未依約定之旅程進行者，旅客就其時間之浪費，得按日請求賠償相當之金額。但其每日賠償金額，不得超過旅遊營業人所收旅遊費用總額每日平均之數額。

Article 514- 8

If, owing to circumstances for which the tourist agency is responsible to the travel doesn't proceed according to the itinerary agreed, the traveler may demand for the injury of a reasonable sum of money which is counted by day, in accordance with the waste of time. However, the sum of the injury for each day shall not exceed the average sum of each day which the tourist agency has received from the travel outlays.

第 514-9 條(旅客隨時終止契約之規定)

旅遊未完成前，旅客得隨時終止契約。但應賠償旅遊營業人因契約終止而生之損害。

第五百十四條之五第四項之規定，於前項情形準用之。

Article 514- 9

Before the travel hasn't been finished, the traveler may terminate the contract at any time. However, he shall compensate to the tourist agency for the injury resulting therefrom.

The provision of the fourth paragraph of Article 514-5 shall apply mutatis mutandis to the preceding paragraph.

第 514-10 條(旅客在旅遊途中發生身體或財產上事故之處置)

旅客在旅遊中發生身體或財產上之事故時，旅遊營業人應為必要之協助及處理。

前項之事故，係因非可歸責於旅遊營業人之事由所致者，其所生之費用，由旅客負擔。

Article 514-10

If an accident of the body or the property happens to the traveler during the travel, the tourist agency shall give a necessary help and disposition.

The accident specified in the preceding paragraph, if, owing to circumstances for which the tourist agency is not responsible, the traveler is bound to pay the expense resulting therefrom.

第 514-11 條(旅遊營業人協助旅客處理購物瑕疵)

旅遊營業人安排旅客在特定場所購物，其所購物品有瑕疵者，旅客得於受領所購物品後一個月內，請

Article 514-11

If the tourist agency arranges the traveler to go shopping in the specific place, and the thing which he bought is defective, the traveler may request the tourist agency to help him to dispose

求旅遊營業人協助其處理。

within one month after he received such thing which he bought.

第 514-12 條(短期之時效)

本節規定之增加、減少或退還費用請求權，損害賠償請求權及墊付費用償還請求權，均自旅遊終了或應終了時起，一年間不行使而消滅。

Article 514-12

The claim for increase, reduction or return of the expense, the claim for compensation for the injury, and the claim for the return of expense paid in advance specified provisions of this section is extinguished by prescription if it is not exercised within one year from the end of the travel or the travel shall end.

第九節 出版

Section 9 - Publication

第 515 條(出版之定義)

稱出版者，謂當事人約定，一方以文學、科學、藝術或其他之著作，為出版而交付於他方，他方擔任印刷或以其他方法重製及發行之契約。投稿於新聞紙或雜誌經刊登者，推定成立出版契約。

Article 515

A contract for publication is a contract whereby one of the parties agrees to deliver to the other for publication a literary, a scientific, an artistic, or others of the writings, and the latter agrees to print or in other ways to reproduce and publish the said writings.

Writing for a publication in a newspaper or a magazine has been published, it is presumed to be constituted the contract for publication.

第 515-1 條(出版權之授與及消滅)

出版權於出版權授與人依出版契約將著作交付於出版人時，授與出版人。依前項規定授與出版人之出版權，於出版契約終了時消滅。

Article 515-1

The right of publication cedes to the editor when the person ceding the right of publication according to the contract for publication delivers the writing to the editor.

The provision of preceding paragraph, the editor's right of publication ceded, is extinguished at the end of the contract for publication.

第 516 條(出版權之移轉與權利瑕疵擔保)

著作財產權人之權利，於合法授權實行之必要範圍內，由出版人行使之。

出版權授與人，應擔保其於契約成立時，有出版授與之權利，如著作受法律上之保護者，並應擔保該著作有著作權。

出版權授與人，已將著作之全部或一部，交付第三人出版，或經第三人公開發表，為其所明知者，應於契約成立前將其情事告知出版人。

Article 516

The rights of the author who are entitled to the intellectual property are exercised by the editor, in so far as it is necessary for the legal authority of the execution.

The person ceding the right of publication shall warrant that, at the time when the contract is constituted, he has the right of ceding the publication; and, if the writing is protected by law, he shall also warrant that he has its copyright.

If the whole or a part of the writing has already been delivered to a third party for publication, or has been publicly published by such third party to the knowledge of the person ceding the right of publication, such person shall inform the editor about it before the conclusion of the contract.

第 517 條(出版權授與人為不利於出版人處分之禁止及例外)

出版權授與人於出版人得重製發行之出版物未賣完時，不得就其著

Article 517

So long as the copies which the editor may reproduce and publish are not exhausted, the person ceding the right of

作之全部或一部，為不利於出版人之處分。但契約另有訂定者，不在此限。

publication shall not dispose to the prejudice of the editor of the whole writing or of any part of it, unless otherwise provided by the contract.

第 518 條(版數與續版義務)

版數未約定者，出版人僅得出一版。

出版人依約得出數版或永遠出版者，如於前版之出版物賣完後，怠於新版之重製時，出版權授與人得聲請法院令出版人於一定期限內，再出新版。逾期不遵行者，喪失其出版權。

Article 518

If the number of editions has not been agreed, the editor may print only one edition.

If according to the contract, the editor may publish several editions or to publish the writing indefinitely and he neglects to reproduce a new edition after the last one is exhausted, the court may, on the application of the person ceding the right of publication, order that a new edition be published by the editor within a fixed deadline. Failure by the editor to comply with this order within such deadline his right of publication is deprived.

第 519 條(出版人之發行義務)

出版人對於著作，不得增減或變更。

出版人應以適當之格式重製著作。並應為必要之廣告及用通常之方法推銷出版物。

出版物之賣價，由出版人定之。但不得過高，致礙出版物之銷行。

Article 519

The editor shall not add or shorten or modify the writing.

The editor shall reproduce the writing in appropriate form. He shall also make the necessary advertisements and take the ordinary measures to promote the sales of the publication

The selling price of the publication is to be fixed by the editor, but it shall not be fixed too high so as to hinder the sale of the publication.

第 520 條(著作物之訂正或修改)

著作人於不妨害出版人出版之利益，或增加其責任之範圍內，得訂正或修改著作。但對於出版人因此所生不可預見之費用，應負賠償責任。

出版人於重製新版前，應予著作人以訂正或修改著作之機會。

Article 520

The author may correct or revise his writing in so far as it does not harm the interests of the editor, or does not increase his responsibility. However, he shall compensate to the editor for all unexpected expenses resulting therefrom.

The editor shall give the author the opportunity to correct or revise the writing, before a new edition is reproduced.

第 521 條(著作物出版之分合)

同一著作人之數著作，為各別出版而交付於出版人者，出版人不得將其數著作，併合出版。

出版權授與人就同一著作人或數著作人之數著作為併合出版，而交付於出版人者，出版人不得將著作，各別出版。

Article 521

Where several writings of one and the same author are delivered to the editor to be published separately, the editor shall not publish them collectively.

The person ceding the right of edition whereby several writing of the same author or several authors are delivered to the editor to be published collectively, the editor shall not publish them separately.

第 522 條

(刪除)

Article 522

(Repealed)

第 523 條(著作物之報酬)

如依情形非受報酬，即不為著作之交付者，視為允與報酬。

Article 523

Remuneration is deemed to have been agreed upon, if in accordance with the circumstances the delivery of the writing is

出版人有出數版之權者，其次版之報酬，及其他出版之條件，推定與前版相同。

not to take place without remuneration.

If the editor has the right to publish several editions, relating to remunerations and other conditions for publishing the subsequent editions are presumed to be the same as the last one.

第 524 條(給付報酬之時效及銷行證明之提出)

著作全部出版者，於其全部重製完畢時，分部出版者，於其各部分重製完畢時應給付報酬。

報酬之全部或一部，依銷行之多寡而定者，出版人應依習慣計算，支付報酬，並應提出銷行之證明。

Article 524

Remuneration shall be paid when the reproduction of the whole writing is completed, if it is to be issued as a whole, or when the reproduction of each part is completed if it is to be issued separately.

When the whole or a part of the remuneration is to be fixed according to the results of the sale, the editor shall pay such remuneration counted by customs and produce proof of his account of sale.

第 525 條(著作物之危險負擔 - 著作物滅失)

著作交付出版人後，因不可抗力致滅失者，出版人仍負給付報酬之義務。

滅失之著作，如出版權授與人另有稿本者，有將該稿本交付於出版人之義務。無稿本時，如出版權授與人係著作人，且不多費勞力，即可重作者，應重作之。

前項情形，出版權授與人得請求相當之賠償。

Article 525

When the writing, after having been delivered to the editor, is destroyed by force majeure, the editor is still liable to pay the remuneration.

If the person ceding the right of edition keeps a duplicate copy of the writing destroyed, he is bound to deliver it to the editor; but in case there is no duplicate copy, if the person ceding the right of edition is the author, he shall remake it, if the work does not take much labor.

In the case specified in the preceding paragraph, the person ceding the right of edition may demand for a reasonable compensation.

第 526 條(著作物之危險負擔 - 出版物滅失)

重製完畢之出版物，於發行前，因不可抗力，致全部或一部滅失者，出版人得以自己費用，就滅失之出版物，補行出版，對於出版權授與人，無須補給報酬。

Article 526

If before publishing, the publication of reproduction completed, the whole or a part of the edition is destroyed by force majeure, the editor may republish at his own expense the part that is destroyed without paying an additional remuneration to the person ceding the right of edition.

第 527 條(出版關係之消滅)

著作未完成前，如著作人死亡，或喪失能力，或非因其過失致不能完成其著作，其出版契約關係消滅。

前項情形，如出版契約關係之全部或一部之繼續，為可能且公平者，法院得許其繼續，並命為必要之處置。

Article 527

A contract of publication is extinguished if, before the completion of the writing, the author died or becomes incapable, or it is impossible to have it completed without his own negligence.

In the case specified in the preceding paragraph, if it is possible and fair to continue the whole or part of the contract of publication, the court may allow it to be continued and order the necessary disposition.

第一〇節 委任**Section 10 - Mandate****第 528 條(委任之定義)**

稱委任者，謂當事人約定，一方委託他方處理事務，他方允為處理之契約。

Article 528

A contract of mandate is a contract whereby the parties agree that one of them commissions the other party to deal with his affairs, and the latter agrees to do so.

第 529 條(勞務給付契約之適用)

關於勞務給付之契約，不屬於法律所定其他契約之種類者，適用關於委任之規定。

Article 529

With regarding to the provisions of Mandate shall apply to any contract concerning the performance of services which does not belong to any kind of other contracts provided for by the act.

第 530 條(視為允受委託)

有承受委託處理一定事務之公然表示者，如對於該事務之委託，不即為拒絕之通知時，視為允受委託。

Article 530

A person who publicly expresses to take commission to deal with affairs specified is deemed to have accepted a mandate relating to such affairs, if he does not notify offeror immediately to refuse it.

第 531 條(委任事務處理權之授與)

為委任事務之處理，須為法律行為，而該法律行為，依法應以文字為之者，其處理權之授與，亦應以文字為之。其授與代理權者，代理權之授與亦同。

Article 531

If, in order to deal with the affairs commissioned to him, the mandatory has to make juridical acts, which are required by the act to be in writing, giving the power of dealing with the affairs shall also be in writing. If a delegated power is given, the giving of delegated power shall apply the same rule.

第 532 條(受任人之權限 - 特別委任或概括委任)

受任人之權限，依委任契約之訂定。未訂定者，依其委任事務之性質定之。委任人得指定一項或數項事務而為特別委任。或就一切事務，而為概括委任。

Article 532

The scope of the power of the mandatory is agreed by the contract of mandate, or, in the absence of such agreement, according to the nature of the affair commissioned. The principal may give to the mandatory one or several affairs for specific mandate, or he may give a general mandate for all the affairs.

第 533 條(特別委任)

受任人受特別委任者，就委任事務之處理，得為委任人為一切必要之行為。

Article 533

The mandatory who has been given a general mandate may do whatever is necessary for the principal, of dealing with the affair commissioned.

第 534 條(概括委任)

受任人受概括委任者，得為委任人為一切行為。但為左列行為，須有特別之授權：

Article 534

The mandatory who has a general mandate may do all acts, unless the following acts for which a specific commission shall be given:

- 一、不動產之出賣或設定負擔。
- 二、不動產之租賃其期限逾二年者。
- 三、贈與。
- 四、和解。
- 五、起訴。

- (1) To sell real property or create a right in rem over it;
- (2) To lease real property for a period of more than two years;
- (3) To make a gift;
- (4) To make a compromise;
- (5) To bring an action for the satisfaction of a claim;

六、提付仲裁。

(6) To submit a dispute for arbitration.

第 535 條(受任人之依從指示及注意義務)

受任人處理委任事務，應依委任人之指示，並與處理自己事務為同一之注意，其受有報酬者，應以善良管理人之注意為之。

Article 535

The mandatory who deals with the affair commissioned, shall be in accordance with the instructions of the principal and with the same care as he would deal with his own affairs. If he has received the remuneration, he shall do so with the care of a good administrator.

第 536 條(變更指示)

受任人非有急迫之情事，並可推定委任人若知有此情事亦允許變更其指示者，不得變更委任人之指示。

Article 536

A mandatory shall not deviate from the instructions of his principal except in cases of urgency, and provided that from the circumstances he can presume that the principal would permit of the deviation, if he had knowledge of the state of affairs.

第 537 條(處理事務之專屬性與複委任)

受任人應自己處理委任事務。但經委任人之同意或另有習慣或有不得已之事由者，得使第三人代為處理。

Article 537

The mandatory shall deal personally with the affairs commissioned. However, if the principal has consented, or customs, or unavoidable circumstances, he may commission a third party instead to deal with the said affairs.

第 538 條(複委任之效力)

受任人違反前條之規定，使第三人代為處理委任事務者，就該第三人之行為，與就自己之行為，負同一責任。

受任人依前條之規定，使第三人代為處理委任事務者，僅就第三人之選任及其對於第三人所為之指示，負其責任。

Article 538

If the mandatory has commissioned a third party instead to deal with the affairs which are the object of the mandate contrary to the provisions of the preceding article, he is liable for the acts of such third party in the same way as for his own.

If the third party has been commissioned instead to deal with the affairs which are the object of the mandate in accordance with the provisions of the preceding article, the mandatory is liable only for the selection of such third party, and the instructions which he has given to the third party.

第 539 條(複委任之效力 - 委任人對第三人之直接請求權)

受任人使第三人代為處理委任事務者，委任人對於該第三人關於委任事務之履行，有直接請求權。

Article 539

When a third party has been commissioned instead to deal with the affairs which are the object of the mandate, the principal has a direct right of demand to such third party relating to the execution of the affairs which are the object of the mandate.

第 540 條(受任人之報告義務)

受任人應將委任事務進行之狀況，報告委任人，委任關係終止時，應明確報告其顛末。

Article 540

The mandatory shall inform the principal of the progress of the affairs commissioned. He shall give a definite report of his account at the end of the mandate.

第 541 條(交付金錢物品孳息及移轉權利之義務)

受任人因處理委任事務，所收取之

Article 541

The mandatory shall deliver to the principal the moneys, things

金錢、物品及孳息，應交付於委任人。
受任人以自己之名義，為委任人取得之權利，應移轉於委任人。

and profits which he received or collected in consequence of the dealing of the affairs commissioned.
The mandatory shall transfer to the principal the rights which he acquires in his own name but on behalf of the principal.

第 542 條(支付利息與損害賠償)

受任人為自己之利益，使用應交付於委任人之金錢或使用應為委任人利益而使用之金錢者，應自使用之日起，支付利息。如有損害，並應賠償。

Article 542

If the mandatory has used for his own interests money which he shall have delivered to his principal or to have used in the interests of the principal, he shall pay interest thereon from the date when he used it for his own interests. He shall also compensate for the injury, if any.

第 543 條(處理委任事務請求權讓與之禁止)

委任人非經受任人之同意，不得將處理委任事務之請求權，讓與第三人。

Article 543

The principal shall not transfer to a third party the claim of dealing the affairs commissioned without the consent of the mandatory.

第 544 條(受任人之損害賠償責任)

受任人因處理委任事務有過失，或因逾越權限之行為所生之損害，對於委任人應負賠償之責。

Article 544

The mandatory shall be liable to the principal for any injury resulting from his negligence in the execution of the affairs commissioned or from such acts as are beyond his authority.

第 545 條(必要費用之預付)

委任人因受任人之請求，應預付處理委任事務之必要費用。

Article 545

The principal shall, if required by the mandatory, pay him necessary outlays for the dealing of the affairs commissioned.

第 546 條(委任人之償還費用代償債務及損害賠償義務)

受任人因處理委任事務，支出之必要費用，委任人應償還之，並付自支出時起之利息。

受任人因處理委任事務，負擔必要債務者，得請求委任人代其清償，未至清償期者，得請求委任人提出相當擔保。

受任人處理委任事務，因非可歸責於自己之事由，致受損害者，得向委任人請求賠償。

前項損害之發生，如別有應負責任之人時，委任人對於該應負責者，有求償權。

Article 546

If the mandatory, in the dealing of the affairs commissioned, has incurred necessary outlays, the principal shall return them with interest from the date when he paid for it.

If the mandatory in the dealing of the affairs commissioned has born a necessary obligation, he may demand the principal to perform such obligation in his place; or if the obligation is not yet matured, he may demand the principal to furnish a proper security for its performance.

If, in the dealing of the affairs commissioned, the mandatory has incurred injury through a circumstance for which he is not responsible, he may demand for the injury from the principal.

If there is someone else who shall be responsible for the injury prescribed in the preceding paragraph, the principal may make a claim against this person for reimbursement.

第 547 條(委任報酬之支付)

報酬縱未約定，如依習慣或依委任事務之性質，應給與報酬者，受任人得請求報酬。

Article 547

Although remuneration has not been agreed upon, the mandatory may demand for such remuneration by customs, or by the nature of the affairs commissioned which shall pay the remuneration.

第 548 條(請求報酬之時期)

受任人應受報酬者，除契約另有訂定外，非於委任關係終止及為明確報告顛末後，不得請求給付。委任關係，因非可歸責於受任人之事由，於事務處理未完畢前已終止者，受任人得就其已處理之部份，請求報酬。

Article 548

When the mandatory shall receive remuneration, he shall not demand to pay until the end of the mandate and after the mandatory has given a definite report of his accounts, unless otherwise provided by the contract. If, owing to circumstances for which the mandatory is not responsible, the mandate has ended before the completion of the dealing of the affairs commissioned, the mandatory may demand for the remuneration for such part he has dealt.

第 549 條(委任契約之終止 - 任意終止)

當事人之任何一方，得隨時終止委任契約。當事人之一方，於不利於他方之時期終止契約者，應負損害賠償責任。但因非可歸責於該當事人之事由，致不得不終止契約者，不在此限。

Article 549

Either party to a contract of mandate may terminate it at any time. One of the parties who terminate the contract of the mandate at a period which is prejudicial to the other party shall pay to the other party for any injury resulting therefrom, unless the termination has to take place by reasons for which the party terminating the contract of the mandate is not responsible.

第 550 條(委任關係之消滅 - 當事人死亡、破產或喪失行為能力)

委任關係，因當事人一方死亡、破產或喪失行為能力而消滅。但契約另訂定，或因委任事務之性質不能消滅者，不在此限。

Article 550

The mandate terminates when one of the parties dies, or bankrupts, or loses his capacity to make juridical acts, unless it is otherwise provided by contract, or unless, from the nature of the affairs commissioned, such mandate cannot be extinguished.

第 551 條(委任事務之繼續處理)

前條情形，如委任關係之消滅，有害於受任人利益之虞時，受任人或其繼承人或其法定代理人，於受任人或其繼承人或其法定代理人能接受委任事務前，應繼續處理其事務。

Article 551

In the case specified in the preceding article, when the extinction of the mandate would be prejudicial to the interests of the principal, the mandatory, his successors or his guardian shall continue the dealing of the affairs, until the principal, his successors or his guardian themselves can continue to deal the said affairs.

第 552 條(委任關係之視為存續)

委任關係消滅之事由，係由當事人之一方發生者，於他方知其事由或可得而知其事由前，委任關係視為存續。

Article 552

When the causes for the extinction of the mandate arise through one of the parties, the mandate is deemed to continue, until the other party knows or may know of such causes.

第一一節 經理人及代辦商**Section 11 - Manager And Commercial Agents****第 553 條(經理人之定義及經理權之授與)**

稱經理人者，謂由商號之授權，為其管理事務及簽名之人。前項經理權之授與，得以明示或默

Article 553

A manager is a person who has authorized by a firm, to manage the affairs of a firm and to sign on behalf of the said firm. The authorization of power of the manager under the preceding

示為之。
經理權得限於管理商號事務之一部或商號之一分號或數分號。

paragraph may be expressed or implied.

The power of the manager may be limited to the management of a particular line of business of the firm or to the management of a particular branch or several branches of the firm.

第 554 條(經理權 - 管理行為)

經理人對於第三人之關係，就商號或其分號，或其事務之一部，視為其有為管理上之一切必要行為之權。

經理人，除有書面之授權外，對於不動產，不得買賣，或設定負擔。

前項關於不動產買賣之限制，於以買賣不動產為營業之商號經理人，不適用之。

Article 554

As regard to third parties, a manager is deemed to have a power to do whatever is necessary for the management of the firm, or branch, or line of business authorized to him.

However, the manager shall not sell or buy or create a right in rem over real property, unless he has been authorized in written form.

The limitation with regard to the buying or selling real property specified in the preceding paragraph shall not apply to a manager of a firm which is on business of buying or selling real property.

第 555 條(經理權 - 訴訟行為)

經理人，就所任之事務，視為有代理商號為原告或被告或其他一切訴訟上行為之權。

Article 555

A manager is deemed to have a power to represent his firm as a plaintiff or defendant, or to do any other acts in actions, for the business authorized.

第 556 條(共同經理人)

商號得授權於數經理人。但經理人中有二人之簽名者，對於商號，即生效力。

Article 556

The firm may authorize to several managers, but the joint signatures of two of them are effective to the firm.

第 557 條(經理權之限制)

經理權之限制，除第五百五十三條第三項、第五百五十四條第二項及第五百五十六條所規定外，不得以之對抗善意第三人。

Article 557

The limitation to the power of a manager other than those specified in the third paragraph of Article 553, the second paragraph of Article 554, and Article 556, shall not be a valid defense against any bona fide third parties.

第 558 條(代辦商之意義及其權限)

稱代辦商者，謂非經理人而受商號之委託，於一定處所或一定區域內，以該商號之名義，辦理其事務之全部或一部之人。

代辦商對於第三人之關係，就其所代辦之事務，視為其有為一切必要行為之權。

代辦商，除有書面之授權外，不得負擔票據上之義務，或為消費借貸，或為訴訟。

Article 558

A commercial agent is a person who, are not a manager, is commissioned by a firm to deal with the whole or a part of the affairs, in the name of the firm, in a specified place or area.

As regard to third parties the commercial agent is deemed to have a power to do whatever is necessary for the affairs which he is commissioned.

A commercial agent shall not bear the duty of the note or loan for consumption or file an action in court, unless he has been authorized in written form.

第 559 條(代辦商報告義務)

代辦商，就其代辦之事務，應隨時報告其處所或區域之商業狀況於

Article 559

The commercial agent shall inform to his firm of the commercial conditions of his place or district, at any time,

其商號，並應將其所為之交易，即時報告之。

concerning the affairs which he is commissioned. He shall report immediately to his firm any transaction which he has made for it.

第 560 條(報酬及費用償還請求權)

代辦商得依契約所定，請求報酬或請求償還其費用。無約定者，依習慣；無約定亦無習慣者，依其代辦事務之重要程度及多寡，定其報酬。

Article 560

A commercial agent can demand for the remuneration or reimbursement of expenses as agreed upon. If, in the absence of such agreement, according to customs, and in the absence of such agreement or customs, his remuneration shall be proportionate to the importance and volume of the affairs which he has done for his firm.

第 561 條(代辦權終止)

代辦權未定期限者，當事人之任何一方得隨時終止契約。但應於三個月前通知他方。

當事人之一方，因非可歸責於自己之事由，致不得不終止契約者，得不先期通知而終止之。

Article 561

If the duration of the power of the commercial agent is not fixed, either party may terminate it at any time, unless three months notice in advance shall be given to the other party.

One of the parties may also terminate the contract at any time without notice in advance in case the termination has to take place by reasons for which the party terminating the contract is not responsible.

第 562 條(競業禁止)

經理人或代辦商，非得其商號之允許，不得為自己或第三人經營與其所辦理之同類事業，亦不得為同類事業公司無限責任之股東。

Article 562

A manager or commercial agent shall not without the consent of his firm enter on his own account or on account of third parties into any business of the same kind as that which he is commissioned for his firm, nor can he be a partner with unlimited liability in a commercial firm which carries on the same kind of business.

第 563 條(違反競業禁止之效力 - 商號之介入權及時效)

經理人或代辦商，有違反前條規定之行為時，其商號得請求因其行為所得之利益，作為損害賠償。

前項請求權，自商號知有違反行為時起，經過二個月或自行為時起，經過一年不行使而消滅。

Article 563

If an action of a manager or commercial agent violates the provisions specified in the preceding article, his firm may demand from him, as the injury, the profits resulting from his act.

The right to claim under the preceding paragraph is extinguished by prescription if it is not exercised within two months from the time when the firm knew of the violation or within one year from the date of the act.

第 564 條(經理權或代辦權消滅之限制)

經理權或代辦權，不因商號所有人之死亡、破產或喪失行為能力而消滅。

Article 564

The power of a manager or commercial agent is not extinguished, when the owner of the firm dies, bankrupts or loses his capacity to make juridical acts.

第一二節 居間

Section 12 - Brokerage

第 565 條(居間之定義)

稱居間者，謂當事人約定，一方為他方報告訂約之機會或為訂約之媒介，他方給付報酬之契約。

第 566 條(報酬及報酬額)

如依情形，非受報酬即不為報告訂約機會或媒介者，視為允與報酬。

未定報酬額者，按照價目表所定給付之。無價目表者，按照習慣給付。

第 567 條(居間人據實報告及妥為媒介義務)

居間人關於訂約事項，應就其所知，據實報告於各當事人。對於顯無履行能力之人，或知其無訂立該約能力之人，不得為其媒介。

以居間為營業者，關於訂約事項及當事人之履行能力或訂立該約之能力，有調查之義務。

第 568 條(報酬請求之時期)

居間人，以契約因其報告或媒介而成立者為限，得請求報酬。

契約附有停止條件者，於該條件成就前，居間人不得請求報酬。

第 569 條(費用償還請求之限制)

居間人支出之費用，非經約定，不得請求償還。

前項規定，於居間人已為報告或媒介而契約不成立者適用之。

第 570 條(報酬之給付義務人)

居間人因媒介應得之報酬，除契約另有訂定或另有習慣外，由契約當事人雙方平均負擔。

第 571 條(違反忠實辦理義務之效力 - 報酬及費用償還請求權之喪失)**Article 565**

A contract of brokerage is a contract whereby one of the parties agrees to inform the other party of the occasion to constitute a contract, or to act as intermediary for the conclusion of a contract, and such other party agrees to pay him remuneration.

Article 566

Remuneration is deemed to have been agreed upon, if from the circumstances the broker is not to apply the information for the conclusion of the contract or to act as an intermediary for it without remuneration.

If the amount of the remuneration is not specified, it shall be paid according to the tariff. If there is not a tariff, the remuneration shall be paid according to custom.

Article 567

The broker is bound to accurately to each party report the circumstances of the proposed transaction, so far as he knows them. He shall not act as intermediary for a person who is notoriously insolvent or whom he knows to have no capacity to enter into the proposed contract.

A business broker has duty of investigation about the circumstances of the proposed transaction and the solvency or capacity of each party to enter into the proposed contract.

Article 568

The broker is entitled to his remuneration only if the contract is constituted through his intermediary or due to the information supplied by him.

When the contract is constituted under a suspensive condition, the broker shall not claim the remuneration until the condition is fulfilled.

Article 569

The broker is entitled to claim reimbursement for expenses incurred by him only if such reimbursement has been agreed upon.

The provisions of the preceding paragraph shall be applied even if no contract is constituted after the broker has supplied the information or acted as an intermediary.

Article 570

Unless otherwise provided for by contract or by custom, each party to the contract shall bear an equal part of the remuneration to which the broker is entitled for having acted as intermediary.

Article 571

失)

居間人違反其對於委託人之義務，而為利於委託人之相對人之行為，或違反誠實及信用方法，由相對人收受利益者，不得向委託人請求報酬及償還費用。

The broker forfeits his rights to remuneration and to reimbursement of expenses if he acts in the interest of the other party contrary to his obligations to the principal, or if he accepts from such other party advantages under such circumstances as violating the rules of good faith.

第 572 條(報酬之酌減)

約定之報酬，較居間人所任勞務之價值，為數過鉅失其公平者，法院得因報酬給付義務人之請求酌減之。但報酬已給付者，不得請求返還。

Article 572

If the agreed remuneration is not proportionate to the actual value of the services rendered by the broker to such an extent that unfairness of the transaction appears, the court may at its discretion, on the application of the person who is responsible for the remuneration, reduce it to a reasonable amount. But no claim shall be made for the return of the remuneration already paid.

第 573 條(婚姻居間之報酬無請求權)

因婚姻居間而約定報酬者，就其報酬無請求權。

Article 573

An agreement promising remuneration for matrimonial brokerage, the claim of remuneration is not enforceable.

第 574 條(居間人無為給付或受領給付之權)

居間人就其媒介所成立之契約，無為當事人給付或受領給付之權。

Article 574

A broker has no authority to make or to receive on behalf of the parties prestations concerning the contract entered into through his intermediary.

第 575 條(匿名居間之不告知與履行義務)

當事人之一方，指定居間人不得以其姓名或商號告知相對人者，居間人有不告知之義務。

居間人不以當事人一方之姓名或商號告知相對人時，應就該方當事人由契約所生之義務，自己負履行之責，並得為其受領給付。

Article 575

The broker is bound, if so instructed by one of the parties, not to disclose the name of such party or of such party's firm to the other party in the contract.

When the broker does not disclose to one of the parties the name of the other party or of the other party's firm, he is personally liable for the performance of the obligations of such other party resulting from the contract and he has authority to receive prestations on behalf on such party.

第一三節 行紀**Section 13 - Commission Agency****第 576 條(行紀之定義)**

稱行紀者，謂以自己之名義，為他人之計算，為動產之買賣或其他商業上之交易，而受報酬之營業。

Article 576

A commission agent is a person who undertakes, as a business, to buy or sell the personal property or deal any other commercial transaction in his own name but on account of a principal, for a remuneration.

第 577 條(委任規定之適用)

行紀，除本節有規定者外，適用關

Article 577

In addition to the provisions contained in the present title, the

於委任之規定。

provisions concerning Mandate shall apply to the Commission Agency as well.

第 578 條(行紀人與相對人之權義)

行紀人為委託人之計算所為之交易，對於交易之相對人，自得權利並自負義務。

Article 578

The commission agent personally acquires rights against and incurs obligations towards the parties with whom he transacts business on account of the principal.

第 579 條(行紀人之直接履行義務)

行紀人為委託人之計算所訂立之契約，其契約之他方當事人不履行債務時，對於委託人，應由行紀人負直接履行契約之義務，但契約另有訂定或另有習慣者，不在此限。

Article 579

Unless otherwise provided by the contract or by the custom, if the other party to a contract, which a commission agent made on behalf of a principal, does not perform his obligations, the commission agent is directly liable to the principal for the performance of the contract.

第 580 條(差額之補償)

行紀人以低於委託人所指定之價額賣出，或以高於委託人所指定之價額買入者，應補償其差額。

Article 580

When a commission agent has made a sale for a lower price or has made a purchase for a higher price than that specified by the principal, he shall compensate the difference, of the sale or purchase.

第 581 條(高價賣出或低價買入利益之歸屬)

行紀人以高於委託人所指定之價額賣出，或以低於委託人所指定之價額買入者，其利益均歸屬於委託人。

Article 581

If the commission agent constitutes a sale for a higher price, or constitutes a purchase for a lower price than that specified by the principal, the benefit shall belong to the principal.

第 582 條(報酬及費用償還之請求)

行紀人得依約定或習慣請求報酬、寄存費及運送費，並得請求償還其為委託人之利益而支出之費用及其利息。

Article 582

The commission agent is entitled to such remuneration, storage charges and transportation charges as are specified in the contract, or as are customary. He is also entitled to reimbursement of the expenses plus interests which he makes in the interests of the principal.

第 583 條(行紀人保管義務)

行紀人為委託人之計算所買入或賣出之物，為其占有時，適用寄託之規定。

前項占有之物，除委託人另有指示外，行紀人不負付保險之義務。

Article 583

So long as the things bought or sold by the commission agent on account of the principal are in the possession of the commission agent, the rules concerning Deposit shall be applied.

The commission agent is not bound to insure the things mentioned in the preceding paragraph, unless he has been otherwise instructed by the principal.

第 584 條(行紀人委託物處置義務)

委託出賣之物，於達到行紀人時有瑕疵，或依其物之性質易於敗壞者，行紀人為保護委託人之利益，應與保護自己之利益為同一之處置。

Article 584

If goods entrusted to a commission agent for sale is arrived in a defective condition, or if owing to their perishable nature, the commission agent is bound to take, for the protection of the interests of the principal, such steps as he would take for the protection of his own interest.

第 585 條(買入物之拍賣提存權)

委託人拒絕受領行紀人依其指示所買之物時，行紀人得定相當期限，催告委託人受領，逾期不受領者，行紀人得拍賣其物，並得就其對於委託人因委託關係所生債權之數額，於拍賣價金中取償之，如有賸餘，並得提存。

如為易於敗壞之物，行紀人得不為前項之催告。

第 586 條(委託物之拍賣提存權)

委託行紀人出賣之物，不能賣出或委託人撤回其出賣之委託者，如委託人不於相當期間取回或處分其物時，行紀人得依前條之規定，行使其權利。

第 587 條(行紀人之介入權)

行紀人受委託出賣或買入貨幣、股票或其他市場定有市價之物者，除有反對之約定外，行紀人得自為買受人或出賣人，其價值以依委託人指示而為出賣或買入時市場之市價定之。

前項情形，行紀人仍得行使第五百八十二條所定之請求權。

第 588 條(介入之擬制)

行紀人得自為買受人或出賣人時，如僅將訂立契約之情事通知委託人，而不以他方當事人之姓名告知者，視為自己負擔該方當事人之義務。

第一四節 寄託**第 589 條(寄託之定義及報酬)**

稱寄託者，謂當事人一方以物交付他方，他方允為保管之契約。

受寄人除契約另有訂定或依情形非受報酬即不為保管者外，不得請求報酬。

Article 585

If the principal refuses to accept the goods bought by the commission agent under orders of the principal, the commission agent may fix a reasonable deadline and notify the principal to accept within such deadline. If the principal fails to accept the goods within such deadline, the commission agent may sell them by auction and appropriate the proceeds of the sale up to the amount due to him by the principal by reason of the contract of commission. The balance, if any, may be lodged.

Goods that are easy to corrupt may be sold without notice.

Article 586

If goods entrusted to a commission agent for sale could not be sold, or if the order to sell has been revoked by the principal, and the principal fails to take back the goods or to dispose of them within a reasonable time, the commission agent may exercise his rights in conformity with the provisions of the preceding article.

Article 587

Unless there is an agreement to the contrary, the commission agent who has been ordered to buy or sell currency, stocks or things which have a market quotation may himself be the seller or buyer, the price being determined in accordance with the market quotation at the time of the sale or purchase made in conformity with the orders of the principal.

The commission agent is entitled to exercise his claims specified in Article 582 even in the case specified in the preceding paragraph.

Article 588

In cases where the commission agent is entitled to be himself the seller or buyer, if he notifies the principal of the conclusion of the contract without disclosing the name of other party, he is deemed to have assumed personally the obligations of such other party.

Section 14 - Deposit**Article 589**

A contract of deposit is a contract whereby one of the parties delivers a thing to the other party, who agrees to keep it in his custody.

The depositary is not entitled to remuneration unless otherwise provided for by contract or unless according to the circumstances the keeping into custody is not to be assumed

without remuneration.

第 590 條(受寄人之注意義務)

受寄人保管寄託物，應與處理自己事務為同一之注意，其受有報酬者，應以善良管理人之注意為之。

Article 590

The depositary is bound to take as much care of the thing deposited as he takes of his own things. If the deposit is undertaken for remuneration, the depositary is bound to keep the thing in his custody with the care of a good administrator.

第 591 條(受寄人使用寄託物之禁止)

受寄人非經寄託人之同意，不得自己使用或使第三人使用寄託物。受寄人違反前項之規定者，對於寄託人，應給付相當報償，如有損害，並應賠償。但能證明縱不使用寄託物，仍不免發生損害者，不在此限。

Article 591

The depositary may not use the thing deposited or allow a third party to use it without the consent of the depositor. The depositary, who acts contrary to the provisions of the preceding paragraph, shall pay a reasonable compensation to the depositor. He is also liable for damages, if any, except he can prove that the injury would have occurred even if the thing had not been used.

第 592 條(寄託之專屬性)

受寄人應自己保管寄託物。但經寄託人之同意或另有習慣或有不得已之事由者，得使第三人代為保管。

Article 592

The depositary shall personally keep the thing deposited. He may, however, entrust its custody to a third party if he is allowed to do so by the depositor, or by custom, or in case of unavoidable circumstances.

第 593 條(受寄人使第三人保管之效力)

受寄人違反前條之規定，使第三人代為保管寄託物者，對於寄託物因此所受之損害，應負賠償責任。但能證明縱不使第三人代為保管，仍不免發生損害者，不在此限。

Article 593

The depositary who entrusts the custody of the thing deposited to a third party contrary to the provisions of the preceding article is liable for any injury thereby caused to the thing deposited, except he can prove that the injury would have happened even if the thing deposited had not been entrusted to such third party.

受寄人依前條之規定，使第三人代為保管者，僅就第三人之選任及其對於第三人所為之指示，負其責任。

The depositary who entrusts the custody of the thing deposited to a third party in conformity with the provisions of the preceding article is liable only for the selection of such third party and for the instructions which he has given to the said third party.

第 594 條(保管方法之變更)

寄託物保管之方法經約定者，非有急迫之情事，並可推定寄託人若知有此情事，亦允許變更其約定方法時，受寄人不得變更之。

Article 594

The depositary may not change the method of custody which has been agreed upon, except in case of urgency when he may assume that the depositor would approve of the change if he knew of the state of affairs.

第 595 條(必要費用之償還)

受寄人因保管寄託物而支出之必要費用，寄託人應償還之，並付自支出時起之利息。但契約另有訂定者，依其訂定。

Article 595

The depositor is bound to reimburse the depositary for expenses which were necessary for the preservation or maintenance of the thing deposited, and is also bound to pay the interests of the expenses. But if it is otherwise agreed upon, such an agreement

shall be applied.

第 596 條(寄託人損害賠償責任)

受寄人因寄託物之性質或瑕疵所受之損害，寄託人應負賠償責任。但寄託人於寄託時，非因過失而不知寄託物有發生危險之性質或瑕疵或為受寄人所已知者，不在此限。

Article 596

The depositor is liable for any injury caused to the depositary and resulting from the nature of defects of the thing deposited, except at the time of deposit he did not know of the defect or the dangerous character of the thing and his ignorance was of no negligence, or except the depositary knew of them.

第 597 條(寄託物返還請求權)

寄託物返還之期限，雖經約定，寄託人仍得隨時請求返還。

Article 597

Although the parties have fixed a deadline for the return of the thing deposited, the depositor may still at any time demand the return of it.

第 598 條(受寄人之返還寄託物)

未定返還期限者，受寄人得隨時返還寄託物。
定有返還期限者，受寄人非有不得已之事由，不得於期限屆滿前返還寄託物。

Article 598

If the parties have fixed no deadline for the return of the thing deposited, the depositary may return it at any time.
If a deadline has been fixed, depositary shall not return the thing deposited before the expiration of that period, except in a case of unavoidable circumstances.

第 599 條(孳息一併返還)

受寄人返還寄託物時，應將該物之孳息，一併返還。

Article 599

The depositary is bound to return together with the thing deposited and any profits which may have accrued from it.

第 600 條(寄託物返還之處所)

寄託物之返還，於該物應為保管之地行之。
受寄人依第五百九十二條或依第五百九十四條之規定，將寄託物轉置他處者，得於物之現在地返還之。

Article 600

The return of the thing deposited shall be made at the place where the thing was to be kept.
If the depositary has removed the thing to another place in accordance with the provisions of Article 592 or 594, the return may be made at the place where the thing actually is.

第 601 條(寄託報酬給付之時期)

寄託約定報酬者，應於寄託關係終止時給付之；分期定報酬者，應於每期屆滿時給付之。
寄託物之保管，因非可歸責於受寄人之事由而終止者，除契約另有訂定外，受寄人得就其已為保管之部分，請求報酬。

Article 601

If a remuneration has been agreed upon, it is payable at the termination of the deposit. If the remuneration is fixed by periods, it is payable at the end of each period.
If the custody of the thing deposited be suspended owing to a circumstance for which the depositary is not liable, the depositary may claim a portion of the remuneration proportionate to his services rendered, unless otherwise provided for by contract.

第 601-1 條(第三人主張權利時之返還及危險通知義務)

第三人就寄託物主張權利者，除對於受寄人提起訴訟或為扣押外，受寄人仍有返還寄託物於寄託人之

Article 601-1

The depositary is bound to return the thing deposited to the depositor, notwithstanding any claim of a third party who asserts a right over it, unless such person files an action against

義務。

第三人提起訴訟或扣押時，受寄人應即通知寄託人。

the depositary or attaches the thing.

In the case of an attachment or action by such third party, the depositary shall inform the depositor without delay.

第 601-2 條(短期消滅時效)

關於寄託契約之報酬請求權、費用償還請求權或損害賠償請求權，自寄託關係終止時起，一年間不行使而消滅。

Article 601- 2

Claims for remuneration, reimbursement of expenses or the injury relating to a contract of deposit are extinguished by prescription, if not exercised within one year from the date of the termination of the deposit.

第 602 條(消費寄託)

寄託物為代替物時，如約定寄託物之所有權移轉於受寄人，並由受寄人以種類、品質、數量相同之物返還者，為消費寄託。自受寄人受領該物時起，準用關於消費借貸之規定。

消費寄託，如寄託物之返還，定有期限者，寄託人非有不得已之事由，不得於期限屆滿前請求返還。

前項規定，如商業上另有習慣者，不適用之。

Article 602

In the case of a deposit of fungible things, if it is agreed that the ownership of such things transfers to the depositary, and that the depositary shall return things of the same kind, quality and quantity, is consumption deposit. The provisions concerning Loans for Consumption shall be mutatis mutandis applied from the moment when the things were accepted by the depositary.

Consumption deposit, if a period has been fixed for the return of the thing deposited, the depositor shall not claim the return of the thing before the expiration of that period, except in case of unavoidable circumstances.

If there are commercial customs rules, the preceding paragraph shall not be applied.

第 603 條(法定消費寄託 - 金錢寄託)

寄託物為金錢時，推定其為消費寄託。

Article 603

If the deposit is one of money, it is presumed to be the consumption deposit.

第 603-1 條(混藏寄託)

寄託物為代替物，如未約定其所有權移轉於受寄人者，受寄人得經寄託人同意，就其所受寄託之物與其自己或他寄託人同一種類、品質之寄託物混合保管，各寄託人依其所寄託之數量與混合保管數量之比例，共有混合保管物。

受寄人依前項規定為混合保管者，得以同一種類、品質、數量之混合保管物返還於寄託人。

Article 603- 1

In the case of a deposit of fungible things, if it is not agreed that the ownership of such things transfers to the depositary with the consent of depositor, the depositary may keep things of the same kind, quality and quantity which are belonged to depositor mixed with the other things from him and other depositors, every depositor gets the ownership in accordance with the percentage of the things mixed together.

The depositary keeps the things by the preceding paragraph, may return things of the same kind, quality and quantity to depositor.

第 604 條

(刪除)

Article 604

(Repealed)

第 605 條

(刪除)

Article 605

(Repealed)

第 606 條(場所主人之責任)

旅店或其他供客人住宿為目的之

Article 606

The proprietor of a hotel or such other place where guests are

場所主人，對於客人所攜帶物品之毀損、喪失，應負責任。但因不可抗力或因物之性質或因客人自己或其伴侶、隨從或來賓之故意或過失所致者，不在此限。

received for lodging is liable for any damage or loss of to the things which a guest has brought with him, except the damage was caused by force majeure, or resulted from the nature of the thing, or due to the intentional or negligent acts of the guest himself or of his fellow guests or of the servants of the guest or of persons whom the guest has received.

第 607 條(飲食店浴室主人之責任)

飲食店、浴室或其他相類場所之主人，對於客人所攜帶通常物品之毀損、喪失，負其責任。但有前條但書規定之情形時，不在此限。

Article 607

The proprietor of a restaurant or a bathhouse or the other similar places, is liable for any damage or loss of to the ordinary things which the guest has brought with him, except in the cases provided for in the exception of the preceding article.

第 608 條(貴重物品之責任)

客人之金錢、有價證券、珠寶或其他貴重物品，非經報明其物之性質及數量交付保管者，主人不負責任。

主人無正當理由拒絕為客人保管前項物品者，對於其毀損、喪失，應負責任。其物品因主人或其使用人之故意或過失而致毀損、喪失者，亦同。

Article 608

The proprietor is not liable for money, valuable securities, jewelries or other valuables, unless they have been deposited with the proprietor with a specification of their nature and quantity.

The proprietor is liable for the loss or injury of the article specified in the preceding article, which he has refused without justifiable cause to receive into safe custody. The same rule shall be applied when the damage or loss is caused through the intentional or negligent acts of the proprietor himself or his agents.

第 609 條(減免責任揭示之效力)

以揭示限制或免除前三條所定主人之責任者，其揭示無效。

Article 609

A notice, which excludes or limits the liability of the proprietor provided for in the three preceding articles, is void.

第 610 條(客人之通知義務)

客人知其物品毀損、喪失後，應即通知主人。怠於通知者，喪失其損害賠償請求權。

Article 610

The guest shall give notice to the proprietor of the damage or loss immediately after knowledge of the same. If he delays giving such notice, he forfeits his right to claim for the injury.

第 611 條(短期消滅時效)

依第六百零六條至第六百零八條之規定所生之損害賠償請求權，自發見喪失或毀損之時起，六個月間不行使而消滅。自客人離去場所後，經過六個月者亦同。

Article 611

The right to claim for damages arising from the provisions of Articles 606 to 608, is extinguished by prescription if not exercised within six months from the date of the discovery of the lose or damage. The same rule shall be applied when six months have elapsed from the departure of the guest.

第 612 條(主人之留置權)

主人就住宿、飲食、沐浴或其他服務及墊款所生之債權，於未受清償前，對於客人所攜帶之行李及其他物品，有留置權。

第四百四十五條至第四百四十八條之規定，於前項留置權準用之。

Article 612

The proprietor is entitled to retain the luggage or other property of the guest, until he has been paid the whole of what the guest may owe him in respect to lodging, food, shower or the other services and disbursements.

The provisions of Article 445 to Article 448 shall apply mutatis mutandis to the right of retention of the preceding paragraph.

第一五節 倉庫**Section 15 - Warehousing****第 613 條(倉庫營業人之定義)**

稱倉庫營業人者，謂以受報酬而為他人堆藏及保管物品為營業之人。

Article 613

A Warehouseman is a person who undertakes, as a business, the storage and custody of goods for other persons for remuneration.

第 614 條(寄託規定之準用)

倉庫，除本節有規定者外，準用關於寄託之規定。

Article 614

In addition to the provisions of the present title, the provisions concerning Deposit shall apply mutatis mutandis to Warehousing.

第 615 條(倉單之填發)

倉庫營業人於收受寄託物後，因寄託人之請求，應填發倉單。

Article 615

After the warehouseman received the goods and was required by the depositor shall make out and deliver to the depositor a receipt of warehousing.

第 616 條(倉單之法定記載事項)

倉庫應記載左列事項。並由倉庫營業人簽名：

- 一、寄託人之姓名及住址。
- 二、保管之場所。
- 三、受寄物之種類、品質、數量及其包皮之種類、個數及記號。
- 四、倉單填發地及填發之年、月、日。
- 五、定有保管期間者，其期間。
- 六、保管費。
- 七、受寄物已付保險者，其保險金額、保險期間及保險人之名號。

倉庫營業人應將前列各款事項，記載於倉單簿之存根。

Article 616

The receipt of warehousing shall contain the following particulars and be signed by the warehouseman:

- (1) The name and address of the depositor;
- (2) The place of storage;
- (3) The kind of goods stored, their quality and quantity and the kind, number and marking of the packages;
- (4) The place where and the date when the receipt of warehousing is made out.
- (5) The period for which the goods are stored, if that has been fixed;
- (6) The remuneration for storage;
- (7) If the goods stored are insured, the amount of the insurance, the deadline for which the goods are insured and the name of the insurer.

The warehouseman shall enter the same particular mentioned above in the carbon copy of the warehouse register.

第 617 條(寄託物之分割與新倉單之填發)

倉單持有人，得請求倉庫營業人將寄託物分割為數部分，並填發各該部分之倉單。但持有人應將原倉單交還。
前項分割及填發新倉單之費用，由持有人負擔。

Article 617

The holder of the receipt of warehousing may require the warehouseman to divide the goods stored and to issue to him a separate receipt for each part, provided that the holder shall return the original receipt of warehousing to the warehouseman. The expenses for such divisions and for the issuance of the new receipt of warehousing specified under the preceding paragraph shall be borne by the holder.

第 618 條(倉單之背書及其效力)

倉單所載之貨物，非由寄託人或倉單持有人於倉單背書，並經倉庫營

Article 618

The transfer of ownership of the goods entered in a receipt of warehousing is not effective unless the receipt has been

業人簽名，不生所有權移轉之效力。

endorsed by the owner of the goods with the counter-signature of the warehouseman.

第 618-1 條(倉單遺失或被盜之救濟程序)

倉單遺失、被盜或滅失者，倉單持有人得於公示催告程序開始後，向倉庫營業人提供相當之擔保，請求補發新倉單。

Article 618- 1

When the receipt of warehousing has been lost, stolen or destroyed, the holder of the receipt may, after the commencement of the proceedings by public summons, furnish proper security to the warehouseman and require for the re-issuance of a new receipt.

第 619 條(寄託物之保管期間)

倉庫營業人於約定保管期間屆滿前，不得請求移去寄託物。

未約定保管期間者，自為保管時起經過六個月，倉庫營業人得隨時請求移去寄託物。但應於一個月前通知。

Article 619

The warehouseman shall not request the depositor to remove the goods before the expiration of the time agreed upon for the storage.
If no time has been agreed upon for the storage, the warehouseman may, after six months have elapsed from the commencement of the custody, request at any time, the removal of the goods, provided that one month's previous notice is given to the depositor.

第 620 條(檢點寄託物或摘取樣本之允許)

倉庫營業人，因寄託人或倉單持有人之請求，應許其檢點寄託物、摘取樣本，或為必要之保存行為。

Article 620

The warehouseman is bound, on the request of the depositor or of the holder of the receipt of warehousing, to allow them to inspect the goods deposited or to take samples, or the other necessary conducts for preservation.

第 621 條(拒絕或不能移去寄託物之處理)

倉庫契約終止後，寄託人或倉單持有人，拒絕或不能移去寄託物者，倉庫營業人得定相當期限，請求於期限內移去寄託物，逾期不移去者，倉庫營業人得拍賣寄託物，由拍賣代價中扣去拍賣費用及保管費用，並應以其餘額交付於應得之人。

Article 621

If, at the termination of the contract of warehousing, the depositor or holder of the receipt refuses or is unable to remove the goods deposited, the warehouseman may fix a reasonable deadline and request the depositor to remove the goods within such deadline. If the goods are not removed within such deadline, the warehouseman may sell them by auction, and deduct from the proceeds of the sale the expenses of the auction and the storage charges, and the balance, if any, shall be delivered to the person entitled thereto.

第一六節 運送

Section 16 –Carriage

第一款 通則

Sub-section 1 General Provision

第 622 條(運送人之定義)

稱運送人者，謂以運送物品或旅客為營業而受運費之人。

Article 622

A carrier is a person who undertakes as a business to transport goods or passengers for freight.

第 623 條(短期時效)

關於物品之運送，因喪失、毀損或遲到而生之賠償請求權，自運送終了，或應終了之時起，一年間不行使而消滅。

關於旅客之運送，因傷害或遲到而生之賠償請求權，自運送終了，或應終了之時起，二年間不行使而消滅。

第二款 物品運送**第 624 條(託運單之填發及其應記載事項)**

託運人因運送人之請求，應填給託運單。

託運單應記載左列事項，並由託運人簽名：

- 一、託運人之姓名及住址。
- 二、運送物之種類、品質、數量及其包皮之種類、個數及記號。
- 三、目的地。
- 四、受貨人之名號及住址。
- 五、託運單之填給地及填給之年、月、日。

第 625 條(提單之填發)

運送人於收受運送物後，因託運人之請求，應填發提單。

提單應記載左列事項，並由運送人簽名：

- 一、前條第二項所列第一款至第四款事項。
- 二、運費之數額及其支付人為託運人或為受貨人。
- 三、提單之填發地及填發之年月日。

第 626 條(必要文件之交付及說明義務)

託運人對於運送人應交付運送上及關於稅捐警察所必要之文件，並應為必要之說明。

第 627 條(提單之文義性)

提單填發後，運送人與提單持有人

Article 623

Claims for damages for loss, damage or delay in the transportation of goods are extinguished by prescription if not exercised within one year from the date of the ending of the transportation, or from the date when the ending of the transportation ought to have taken place.

Claims for damages for injury or delay in the transportation of passengers are extinguished by prescription if not exercised within two years from the date of the ending of the transportation, or from the date when the ending of the transportation ought to have taken place.

Sub-section 2 Carriage Of Goods**Article 624**

If required by the carrier, the sender shall make and issue to him a bill of transportation.

A bill of transportation shall contain the following particulars and be signed by the sender:

- (1) The name and address of the sender;
- (2) The kind of goods sent, their quality and quantity, and the kind, number and marking of the packages;
- (3) The place of destination;
- (4) The name and address of the consignee;
- (5) The place where and the time when the bill of transportation is made out.

Article 625

If required by the sender, the carrier shall make and issue to him a bill of lading after receiving the goods of delivery.

The bill of lading shall contain the following particulars and be signed by the carrier:

- (1) Those mentioned in section 1, 2, 3, and 4 or the preceding article.
- (2) The amount of freight, and whether it is paid by the sender or is to be paid by the consignee.
- (3) The place where and the time when the bill of lading is made out.

Article 626

The sender shall supply the carrier with the documents which are necessary for the transport of the goods or required by the tax officials and police authorities, and furnish the necessary information to that effect.

Article 627

When a bill of lading has been supplied to the sender the facts

間，關於運送事項，依其提單之記載。

concerning the carriage as between the carrier and the holder of the bill are determined by the tenor of the bill of lading.

第 628 條(提單之背書性)

提單縱為記名式，仍得以背書移轉於他人。但提單上有禁止背書之記載者，不在此限。

Article 628

Even though a bill of lading has been made out to a named consignee, it may be transferred by endorsement to another person, except endorsement is forbidden in the bill.

第 629 條(提單之物權證券性)

交付提單於有受領物品權利之人時，其交付就物品所有權移轉之關係，與物品之交付有同一之效力。

Article 629

The delivery of the bill of lading to a person entitled to accepting the goods has the same effect, as regards the transfer of the ownership of the goods, as delivery of the goods themselves.

第 629-1 條(提單準用倉單遺失或被盜之救濟程序)

第六百十八條之一之規定，於提單適用之。

Article 629-1

The provisions of Article 618-1 shall apply to the bill of lading.

第 630 條(提單之繳回證券性)

受貨人請求交付運送物時，應將提單交還。

Article 630

The consignee shall, on his requesting the delivery of goods, surrender the bill of lading.

第 631 條(託運人之告知義務)

運送物依其性質，對於人或財產有致損害之虞者，託運人於訂立契約前，應將其性質告知運送人，怠於告知者，對於因此所致之損害，應負賠償之責。

Article 631

If the goods are of such a nature as are likely to cause injury to persons or property, the sender shall declare their nature to the carrier before making the contract of carriage, failing which he shall be liable to make compensation for any injury caused thereby.

第 632 條(運送人之按時運送義務)

託運物品，應於約定期間內運送之。無約定者，依習慣。無約定亦無習慣者，應於相當期間內運送之。

Article 632

The goods shall be transported within the agreed time; in the absence of such agreement, custom shall rule; and in the absence of such agreement or custom, transportation shall be done within a reasonable time.

前項所稱相當期間之決定，應顧及各該運送之特殊情形。

In determining what a reasonable time is as mentioned in the preceding paragraph, the circumstances of each particular case shall be taken into consideration.

第 633 條(變更指示之限制)

運送人非有急迫之情事，並可推定託運人若知有此情事亦允許變更其指示者，不得變更託運人之指示。

Article 633

The carrier is not entitled to deviate from the instructions of the sender except in case of urgency, and provided that from the circumstances he can assume that the sender would approve of the deviation if he had knowledge of the state of affairs.

第 634 條(運送人之責任)

運送人對於運送物之喪失、毀損或遲到，應負責任。但運送人能證明其喪失、毀損或遲到，係因不可抗

Article 634

The carrier is liable for any loss, damage or delay in the delivery of the goods entrusted to him, except he can prove that the loss, damage or delay is due to force majeure, or to the nature of the

力或因運送物之性質或因託運人或受貨人之過失而致者，不在此限。

goods, or to the negligence of the sender or of the consignee.

第 635 條(運送物有易見瑕疵時運用人責任)

運送物因包皮有易見之瑕疵而喪失或毀損時，運送人如於接收該物時，不為保留者，應負責任。

Article 635

The carrier is liable for loss or damage due to apparent defects in packing, if he has accepted the goods for transportation without reservation.

第 636 條 (刪除)

Article 636 (Repealed)

第 637 條(相繼運送人之連帶責任)

運送物由數運送人相繼運送者，除其中有能證明無第六百三十五條所規定之責任者外，對於運送物之喪失、毀損或遲到，應連帶負責。

Article 637

If the goods were transported by several successive carriers, each of them as are unable to prove that they have no liability under the Article 635 are jointly liable for the loss, damage or delay.

第 638 條(損害賠償之範圍)

運送物有喪失、毀損或遲到者，其損害賠償額，應依其應交付時目的地之價值計算之。

運費及其他費用，因運送物之喪失、毀損，無須支付者，應由前項賠償額中扣除之。

運送物之喪失、毀損或遲到，係因運送人之故意或重大過失所致者，如有其他損害，託運人並得請求賠償。

Article 638

In the case of loss, damage or delay, the damages shall be fixed in accordance with the value which the goods would have had at the destination and the time when delivery was due.

The freight and other expenses which need not be paid in consequence of the loss of or damage to the goods transported shall be deducted from the amount of damages specified in the preceding paragraph.

If the loss, damage or delay is due to the intentional acts or gross negligence of the carrier, the sender may also claim for other injuries, if any.

第 639 條(貴重物品之賠償責任)

金錢、有價證券、珠寶或其他貴重物品，除託運人於託運時報明其性質及價值者外，運送人對於其喪失或毀損，不負責任。

價值經報明者，運送人以所報價額為限，負其責任。

Article 639

The carrier is not liable for the loss or damage of the moneys, valuable securities, jewelries or such other valuables, unless he is given notice of the nature and value of such goods when they are entrusted to him.

If their value is declared the liability of the carrier is limited to such declared value.

第 640 條(遲到之損害賠償額)

因遲到之損害賠償額，不得超過因其運送物全部喪失可得請求之賠償額。

Article 640

Injuries in the case of delay in delivery shall not exceed the amount which could be claimed in case of the total loss of the goods.

第 641 條(運送人之必要注意及處置義務)

如有第六百三十三條、第六百五十五條、第六百五十一條之情形，或其

Article 641

In the cases of Articles 633, 650 and 651 and in other cases which may prevent or delay the transportation, or impair the

他情形足以妨礙或遲延運送，或危害運送物之安全者，運送人應為必要之注意及處置。

運送人怠於前項之注意及處置者，對於因此所致之損害應負責任。

safety of the goods, the carrier shall exercise necessary care and measures.

If he fails to take such care and measures as specified in the preceding paragraph, he is liable for any injury resulting therefrom.

第 642 條(運送人之中止運送之返還運送物或為其他處分)

運送人未將運送物之達到通知受貨人前，或受貨人於運送物達到後，尚未請求交付運送物前，託運人對於運送人，如已填發提單者，其持有人對於運送人，得請求中止運送，返還運送物，或為其他之處置。

前項情形，運送人得按照比例，就其已為運送之部分，請求運費，及償還因中止、返還或為其他處置所支出之費用，並得請求相當之損害賠償。

Article 642

As long as the carrier has not notified the consignee of the arrival of the goods, or the consignee after their arrival has not asked for their delivery, the sender, or, if a bill of lading has been made, the holder of the bill of lading may require the carrier to stop the transportation and to return the goods, or to make any other disposition of them.

In the case provided for in the preceding paragraph, the carrier is entitled to the freight in proportion to the transportation already performed and to all expenses occasioned by the stoppage, return or other disposition of the goods, and to reasonable damages.

第 643 條(運送人通知義務)

運送人於運送物達到目的地時，應即通知受貨人。

Article 643

The carrier shall notify the consignee as soon as the goods arrive.

第 644 條(受貨人請求交付之效力)

運送物達到目的地，並經受貨人請求交付後，受貨人取得託運人因運送契約所生之權利。

Article 644

After the goods have arrived at the destination, and the consignee has demanded delivery, the consignee acquires the rights of the sender arising from the contract of carriage.

第 645 條(運送物喪失時之運送費)

運送物於運送中，因不可抗力而喪失者，運送人不得請求運費，其因運送而已受領之數額，應返還之。

Article 645

The carrier is not entitled to the freight of goods which are lost by force majeure during transportation. Whatever has been received for that purpose shall be returned.

第 646 條(最後運送人之責任)

運送人於受領運費及其他費用前交付運送物者，對於其所有前運送人應得之運費及其他費用，負其責任。

Article 646

If the carrier delivers the goods before payment of freight and other expenses, he remains liable to the preceding carriers for such part of the freight and other expenses as may still be due to them.

第 647 條(運送人之留置權與受貨人之提存權)

運送人為保全其運費及其他費用得受清償之必要，按其比例，對於運送物，有留置權。

運費及其他費用之數額有爭執時，受貨人得將有爭執之數額提

Article 647

The carrier is entitled to retain such portion of the goods as may be necessary to secure payment of freight and other expenses.

If the amount of the freight and other expenses be disputed, the consignee is entitled to ask for the delivery of the goods on

存，請求運送物之交付。

lodging the amount in dispute.

第 648 條(運送人責任之消滅及其例外)

受貨人受領運送物並支付運費及其他費用不為保留者，運送人之責任消滅。

運送物內部有喪失或毀損不易發見者，以受貨人於受領運送物後，十日內將其喪失或毀損通知於運送人為限，不適用前項之規定。

運送物之喪失或毀損，如運送人以詐術隱蔽，或因其故意或重大過失所致者，運送人不得主張前二項規定之利益。

Article 648

The liability of the carrier ceases when the consignee has, without reservation, accepted the goods and paid the freight and other expenses.

But this does not apply in the case of loss of or damage to the goods not easily discoverable, provided that notice of such loss or damage is given to the carrier within ten days after the goods accepted by the consignee.

When the loss or damage has been fraudulently concealed by the carrier, or is due to the carrier's intentional acts or gross negligence, the carrier shall not take advantage of the two preceding paragraphs.

第 649 條(減免責任約款之效力)

運送人交與託運人之提單或其他文件上，有免除或限制運送人責任之記載者，除能證明託運人對於其責任之免除或限制明示同意外，不生效力。

Article 649

A statement in the bill of lading or other such document delivered by the carrier to the sender excluding or limiting the liability of the carrier is ineffective, unless it is proved that the sender has expressly agreed to such exclusion or limitation of liability.

第 650 條(運送人之通知並請求指示義務及運送物之寄存拍賣權)

受貨人所在不明或對運送物受領遲延或有其他交付上之障礙時，運送人應即通知託運人，並請求其指示。

如託運人未即為指示，或其指示事實上不能實行，或運送人不能繼續保管運送物時，運送人得以託運人之費用，寄存運送物於倉庫。

運送物如有不能寄存於倉庫之情形，或有易於腐壞之性質或顯見其價值不足抵償運費及其他費用時，運送人得拍賣之。

運送人於可能之範圍內，應將寄存倉庫或拍賣之事情，通知託運人及受貨人。

Article 650

If the consignee cannot be found, or he delays to take delivery of the goods or there are other difficulties of delivery, the carrier shall immediately notify the sender thereof and ask for his instructions.

If the instructions of the sender are not made or are impracticable, or if the carrier cannot keep the goods any longer in his custody, the carrier may deposit the goods in a warehouse at the expense of the sender.

If circumstances are such that deposit in a warehouse is impossible, or if the goods are of a nature of easy to corrupt, or if it is obvious that their value will not be sufficient to cover the freight and other expenses, the carrier may sell the goods by auction.

So far as is practicable, the carrier shall notify the sender and the consignee of the fact of the deposit in the warehouse or of the sale by auction.

第 651 條(有關通知義務及寄存拍賣權之適用)

前條之規定，於受領權之歸屬有訴訟，致交付遲延者適用之。

Article 651

The provisions of the preceding article shall apply, when delay of delivery is due to an action as to who is entitled to take delivery of the goods.

第 652 條(拍賣代價之處理)

運送人得就拍賣代價中，扣除拍賣

Article 652

The carrier shall, after deducting from the proceeds of the

費用、運費及其他費用，並應將其餘額交付於應得之人，如應得之人所在不明者，應為其利益提存之。

at auction the costs of auction, the freight and other expenses, deliver the remaining to the person entitled to it, or, if such person cannot be found, lodge it for such person's benefit.

第 653 條(相繼運送 - 最後運送人之代理權)

運送物由數運送人相繼運送者，其最後之運送人，就運送人全體應得之運費及其他費用，得行使第六百四十七條、第六百五十條及第六百五十二條所定之權利。

Article 653

If the goods were transported by several successive carriers, the last of them may exercise the rights described in Articles 647, 650 and 652 for the amounts due to them all for freight and other expenses.

第三款 旅客運送

Sub-section 3 Carriage Of Passengers

第 654 條(旅客運送人之責任)

旅客運送人對於旅客因運送所受之傷害及運送之遲到應負責任。但因旅客之過失，或其傷害係因不可抗力所致者，不在此限。

Article 654

The carrier of passengers shall be liable for any injury suffered by the passenger in consequence of the transportation, and for the delay in the transportation, except the injury or the delay is due to the negligence of such passenger or the injury is due to force majeure.

運送之遲到係因不可抗力所致者，旅客運送人之責任，除另有交易習慣者外，以旅客因遲到而增加支出之必要費用為限。

If the delay of the transportation is due to force majeure, unless otherwise provided by the trade custom, the liability of the carrier of passengers shall be limited to the increased necessary expenses paid by the passenger due to the delay of the transportation.

第 655 條(行李返還義務)

行李及時交付運送人者，應於旅客達到時返還之。

Article 655

Luggage entrusted to the carrier in time shall be delivered on the arrival of the passenger.

第 656 條(行李之拍賣)

旅客於行李到達後一個月內不取回行李時，運送人得定相當期間催告旅客取回，逾期不取回者，運送人得拍賣之。旅客所在不明者，得不經催告逕予拍賣。

Article 656

If the passenger does not take delivery of the luggage within one month after its arrival within the reasonable deadline the carrier may ask the passenger bring back, or after the deadline, the carrier may sell it by auction. If the passengers could not be found, the carrier may sell it by auction without notice.

行李有易於腐壞之性質者，運送人得於到達後，經過二十四小時，拍賣之。

If the luggage is of a nature that is easy to corrupt, the carrier may sell it by auction twenty-four hours after its arrival.

第六百五十二條之規定，於前二項情形準用之。

The provisions of Article 652 shall apply mutatis mutandis to the cases provided for the two preceding paragraphs.

第 657 條(交託之行李適用物品運送之規定)

運送人對於旅客所交託之行李，縱不另收運費，其權利義務，除本款另有規定外，適用關於物品運送之規定。

Article 657

Unless otherwise provided for under this part, the rights and obligation of the carrier for the luggage, which the passenger has entrusted to him, are governed by the provisions concerning Carriage of Goods, even though the carrier did not make a separate charge for it.

第 658 條(對未交託行李之責任)

運送人對於旅客所未交託之行李，如因自己或其受僱人之過失，致有喪失或毀損者，仍負責任。

Article 658

The carrier is liable for the loss or damage of the luggage caused by his own negligence or that of his employees, even if such luggage has not been entrusted to him by the passenger.

第 659 條(減免責任約款之效力)

運送人交與旅客之票、收據或其他文件上，有免除或限制運送人責任之記載者，除能證明旅客對於其責任之免除或限制明示同意外，不生效力。

Article 659

A statement in a ticket, receipt or other document delivered by the carrier to the passenger, excluding or limiting the liability of the carrier, is ineffective, unless it can be proved that the passenger expressly agreed to such exclusion or limitation of liability.

第一七節 承攬運送**Section 17 - Forwarding Agency****第 660 條(承攬運送人之意義及行紀規定之準用)**

稱承攬運送人者，謂以自己之名義，為他人之計算，使運送人運送物品而受報酬為營業之人。承攬運送，除本節有規定外，準用關於行紀之規定。

Article 660

A forwarding agent is a person, who undertakes, as a business, to forward goods through carriers in his own name but on account of other persons, for remuneration.

Unless otherwise provided in this Section, the provisions concerning Commission Agents shall apply mutatis mutandis to Forwarding Agency.

第 661 條(承攬運送人之損害賠償責任)

承攬運送人，對於託運物品之喪失、毀損或遲到，應負責任。但能證明其於物品之接收保管、運送人之選定、在目的地之交付，及其他與承攬運送有關之事項，未怠於注意者，不在此限。

Article 661

The forwarding agent is liable for any loss, damage or delay in the delivery of the goods entrusted to him, except he can prove that he has not failed to exercise due care in the reception and custody of the goods, in the selection of the carrier, in the delivery at the destination and in all other matters connected with the transportation.

第 662 條(留置權之發生)

承攬運送人為保全其報酬及墊款得受清償之必要，按其比例，對於運送物有留置權。

Article 662

The forwarding agent is entitled to retain such portion of the goods, as may be necessary to secure payment of his remuneration and disbursements.

第 663 條(介入權 - 自行運送)

承攬運送人除契約另有訂定外，得自行運送物品。如自行運送，其權利義務，與運送人同。

Article 663

Unless otherwise provided for by contract, the forwarding agent may himself assume the transportation of the goods, in which case he has the same rights and obligations as a carrier.

第 664 條(介入之擬制)

就運送全部約定價額，或承攬運送人填發提單於委託人者，視為承攬人自己運送，不得另行請求報酬。

Article 664

If a fixed price for the whole of the transportation has been agreed upon, or if the forwarding agent has himself delivered to the sender a bill of lading, the forwarding agent is deemed to have himself assumed the transportation of the goods, in which

case he is not entitled to remuneration.

第 665 條(物品運送規定之準用)

第六百三十一條、第六百三十五條及第六百三十八條至第六百四十條之規定，於承攬運送準用之。

Article 665

The provisions of Articles 631, 635, 638, 639 and 640 shall apply mutatis mutandis to Forwarding Agency.

第 666 條(短期消滅時效)

對於承攬運送人因運送物之喪失、毀損或遲到所生之損害賠償請求權，自運送物交付或應交付之時起，一年間不行使而消滅。

Article 666

Claims against a forwarding agent for loss, damage or delay in the transportation are extinguished by prescription if not exercised within one year from the date of the delivery of the goods or from the date when such delivery ought to have taken place.

第一八節 合夥

Section 18 – Partnership

第 667 條(合夥之意義及合夥人之出資)

稱合夥者，謂二人以上互約出資以經營共同事業之契約。

前項出資，得為金錢或其他財產權，或以勞務、信用或其他利益代之。

金錢以外之出資，應估定價額為其出資額。未經估定者，以他合夥人之平均出資額視為其出資額。

Article 667

Partnership is a contract whereby two or more persons agree to put contributions in common for a collective enterprise.

The contribution may consist of money or other rights over property or of services, credit or other interests.

A contribution other than money shall be assessed at the value of the contribution. If it is not assessed, the average value of the contribution of the other partners is deemed to be the value of the contribution.

第 668 條(合夥財產之共同共有)

各合夥人之出資及其他合夥財產，為合夥人全體之共同共有。

Article 668

The contributions of the partners and all other properties of the partnership are held in common by all the partners.

第 669 條(合夥人不增資權利)

合夥人除有特別訂定外，無於約定出資之外增加出資之義務。因損失而致資本減少者，合夥人無補充之義務。

Article 669

Unless otherwise agreed upon by the partners, a partner is not bound to provide an increase of the contribution which has been agreed upon, nor, if his contribution has been reduced by losses, to make good such losses.

第 670 條(合夥契約或事業種類之變更)

合夥之決議，應以合夥人全體之同意為之。

前項決議，合夥契約約定得由合夥人全體或一部之過半數決定者，從其約定。但關於合夥契約或其事業種類之變更，非經合夥人全體三分之二以上之同意，不得為之。

Article 670

The resolutions of the partnership ought to be made by the unanimous consent of all the partners.

The resolutions of the preceding paragraph when are agreed upon by all the partners or some of the members, should be followed by the agreement, except the affairs of partnership contract or the change of business entity shall be agreed by the numbers more than two thirds of the partners.

第 671 條(合夥事務之執行人及其執行)

合夥之事務，除契約另有訂定或另有決議外，由合夥人全體共同執行之。

合夥之事務，如約定或決議由合夥人中數人執行者，由該數人共同執行之。

合夥之通常事務，得由有執行權之各合夥人單獨執行之。但其他有執行權之合夥人中任何一人，對於該合夥人之行為有異議時，應停止該事務之執行。

第 672 條(合夥人之注意義務)

合夥人執行合夥之事務，應與處理自己事務為同一注意。其受有報酬者，應以善良管理人之注意為之。

第 673 條(合夥人之表決權)

合夥之決議，其有表決權之合夥人，無論其出資之多寡，推定每人僅有一表決權。

第 674 條(合夥事務執行人之辭任與解任)

合夥人中之一人或數人，依約定或決議執行合夥事務者，非有正當事由不得辭任。

前項執行合夥事務之合夥人，非經其他合夥人全體之同意，不得將其解任。

第 675 條(合夥人之事務檢查權)

無執行合夥事務權利之合夥人，縱契約有反對之訂定，仍得隨時檢查合夥之事務及其財產狀況，並得查閱賬簿。

第 676 條(決算及損益分配之時期)

合夥之決算及分配利益，除契約另有訂定外，應於每屆事務年度終為之。

第 677 條(損益分配之成數)

分配損益之成數，未經約定者，按照各合夥人出資額之比例定之。

Article 671

Unless otherwise provided for by contract or by resolutions, the affairs of the partnership shall be managed by all the partners in common.

When it is agreed upon or by resolutions that the affairs of the partnership shall be managed by some of the members only, the affairs of the partnership shall be managed in common by the said members of the partnership.

The ordinary affairs of the partnership may be managed individually by each partner who has the right of management, but, in such a case, every partner who has the right of management may oppose the action of any other partner. In a case of opposition, the dealing of the affair shall be stopped.

Article 672

A Partner who deals the affairs of the partnership shall exercise such care as he would deal with his own affairs, who gets the remuneration should do so with a care of a good administrator...

Article 673

Concerning resolutions of partnership, each partner entitled to vote is presumed to have one vote only, irrespective of the amount of his contribution.

Article 674

When one or several partners in the partnership, by agreement or by resolutions manage the affairs of the partnership, they shall not resign or be removed by the other partners except for a good cause.

Removal of a managing partner, as specified in the preceding paragraph, may take place only by the unanimous consent of all the other partners.

Article 675

Notwithstanding any stipulation to the contrary, a partner who has no right of management, is entitled to enquire at any time into the affairs of the partnership and its financial situation, and to examine its books.

Article 676

Unless otherwise provided for by contract, the accounts of a partnership shall be settled and its profits be distributed at the end of each business year.

Article 677

If the shares of the partners in the profits and losses are not specified, they are fixed in proportion to the value of the

僅就利益或僅就損失所定之分配成數，視為損益共通之分配成數。以勞務為出資之合夥人，除契約另有訂定外，不受損失之分配。

contribution of each partner.

If only the share in profits or the share in losses is specified, the proportion is deemed to be applicable to both profits and losses. Unless otherwise provided for by contract, a member who contributed only his services does not share in the losses.

第 678 條(費用及報酬請求權)

合夥人因合夥事務所支出之費用，得請求償還。

合夥人執行合夥事務，除契約另有訂定外，不得請求報酬。

Article 678

A partner is entitled to the reimbursement of the expenses which he has made for dealing the affairs of the partnership.

Unless otherwise provided for by contract, he is not entitled to remuneration for dealing the affairs of the partnership.

第 679 條(執行事業合夥人之對外代表權)

合夥人依約定或決議執行合夥事務者，於執行合夥事務之範圍內，對於第三人，為他合夥人之代表。

Article 679

A partner, who by agreements or by resolutions deals the affairs of the partnership, represents the other partners towards third parties, in so far as he deals such affairs within his authority of tenor of Mandate.

第 680 條(委任規定之準用)

第五百三十七條至第五百四十六條關於委任之規定，於合夥人之執行合夥事務準用之。

Article 680

The provisions of Articles 537 to 546 concerning Mandate shall apply mutatis mutandis to the dealing of the affairs of the partnership by its partners.

第 681 條(合夥人之補充連帶責任)

合夥財產不足清償合夥之債務時，各合夥人對於不足之額，連帶負其責任。

Article 681

If the assets of the partnership are not sufficient to cover the liabilities, the partners are jointly liable for the deficit.

第 682 條(合夥財產分析與抵銷之禁止)

合夥人於合夥清算前，不得請求合夥財產之分析。

對於合夥負有債務者，不得以其對於任何合夥人之債權與其所負之債務抵銷。

Article 682

A partner is not entitled to demand the partition of the assets, until the liquidation of the partnership takes place.

A debtor of the partnership who has a claim against one of the partners shall not offset it against a claim of the partnership against him.

第 683 條(股分轉讓之限制)

合夥人非經他合夥人全體之同意，不得將自己之股分轉讓於第三人。但轉讓於他合夥人者，不在此限。

Article 683

A partner shall not transfer his share in the partnership to a third party, except it be to another partner.

第 684 條(債權人代位權行使之限制)

合夥人之債權人，於合夥存續期間內，就該合夥人對於合夥之權利，不得代位行使。但利益分配請求權，不在此限。

Article 684

So long as the partnership continues, a personal creditor of a partner shall not be subrogated in any of the rights of such partner against the partnership, except claims for dividends.

第 685 條(合夥人股份之扣押及其效力)

合夥人之債權人，就該合夥人之股份，得聲請扣押。

前項扣押實施後兩個月內，如該合夥人未對於債權人清償或提供相當之擔保者，自扣押時起，對該合夥人發生退夥之效力。

第 686 條(合夥人之聲明退夥)

合夥未定有存續期間，或經訂明以合夥人中一人之終身，為其存續期間者，各合夥人得聲明退夥，但應於兩個月前通知他合夥人。

前項退夥，不得於退夥有不利於合夥事務之時期為之。

合夥縱定有存續期間，如合夥人有非可歸責於自己之重大事由，仍得聲明退夥，不受前二項規定之限制。

第 687 條(法定退夥事由)

合夥人除依前二條規定退夥外，因下列事項之一而退夥：

- 一、合夥人死亡者。但契約訂明其繼承人得繼承者，不在此限。
- 二、合夥人受破產或監護之宣告者。
- 三、合夥人經開除者。

第 688 條(合夥人之關係)

合夥人之開除，以有正當理由為限。

前項開除，應以他合夥人全體之同意為之，並應通知被開除之合夥人。

第 689 條(退夥之結算與股分之抵還)

退夥人與他合夥人間之結算，應以退夥時合夥財產之狀況為準。

退夥人之股分，不問其出資之種類，得由合夥以金錢抵還之。

合夥事務，於退夥時尚未了結者，於了結後計算，並分配其損益。

Article 685

A creditor of a partner may apply for attachment against the share of such partner.

Within two months of the attachment under the preceding paragraph, if the partner could not perform or furnish proper security, the attachment functions to the effect for withdrawal of the partnership for that partner.

Article 686

If no period has been fixed for the duration of the partnership, or if the partnership has been formed for the lifetime of any of its partners, each partner may withdraw from it, provided that the other partners have been notified two months beforehand.

The withdrawal as specified in the preceding paragraph shall not take place at a time when withdrawal would be prejudicial to the affairs of the partnership.

Even if a period has been fixed for the duration of the partnership, a member may give notice of withdrawal for vital reasons due to circumstances for which he is not responsible, notwithstanding the preceding two paragraphs.

Article 687

In addition to the cases provided for in the preceding two articles, withdrawal of a partner takes place in any of the following:

- (1) A partner's death. Except that when stated in a contract that the partner's heirs may inherit his/her rights;
- (2) A partner is declared bankrupt or is subject to the order of the commencement of guardianship;
- (3) A partner is dismissed from his duty.

Article 688

Exclusion of a partner may only take place for a good cause.

The exclusion as specified in the preceding paragraph may be made only by the unanimous consent of the other members, and a notice of the fact shall be served on the excluded partner.

Article 689

The settlement of the accounts between the withdrawing partner and the other partners shall be made on the basis of the financial situation of the partnership at the time of withdrawal.

The share of the withdrawing member may be repaid in money, irrespective of the nature of his contribution.

In regard to those affairs of the partnership not yet concluded at the time of withdrawal, accounts may be settled and profits and

losses be distributed after the conclusion of such affairs.

第 690 條(退夥人之責任)

合夥人退夥後，對於其退夥前合夥所負之債務，仍應負責。

Article 690

A person who has withdrawn from a partnership continues to be liable in respect of the obligations incurred before his withdrawal.

第 691 條(入夥)

合夥成立後，非經合夥人全體之同意，不得允許他人加入為合夥人。

加入為合夥人者，對於其加入前合夥所負之債務，與他合夥人負同一之責任。

Article 691

No person may be introduced as a partner in a partnership that already exists, except by the unanimous consent of all the partners.

A person who becomes a partner of such a partnership is liable in the same way as the other partners for all the obligations incurred prior to his entering it.

第 692 條(合夥之解散)

合夥因左列事項之一而解散：

- 一、合夥存續期限屆滿者。
- 二、合夥人全體同意解散者。
- 三、合夥之目的事業已完成或不能完成者。

Article 692

A partnership is dissolved in any of the following cases:

- (1) When the duration of the partnership agreed upon has expired;
- (2) When the partners unanimously decide to dissolve it;
- (3) When the undertaking which forms its object is accomplished, or when it is impossible to accomplish it.

第 693 條(不定期繼續合夥契約)

合夥所定期限屆滿後，合夥人仍繼續其事務者，視為以不定期限繼續合夥契約。

Article 693

If, after the ending of the duration of the partnership, the partners continue its affairs, the partnership contract is deemed to continue for an indefinite period of time.

第 694 條(清算人之選任)

合夥解散後，其清算由合夥人全體或由其所選任之清算人為之。

前項清算人之選任，以合夥人全體之過半數決之。

Article 694

After dissolution of a partnership, the liquidation of its affairs is carried out either by all the partners jointly, or by liquidators appointed by them for that purpose.

The decision appointing the aforesaid liquidators shall be made by a majority vote of all the partners.

第 695 條(清算之執行及決議)

數人為清算人時，關於清算之決議，應以過半數行之。

Article 695

When there are several persons acting as liquidators, the decisions concerning the liquidation shall be made by a majority vote.

第 696 條(清算人之辭任與解任)

以合夥契約，選任合夥人中一人或數人為清算人者，適用第六百七十四條之規定。

Article 696

In case one or more liquidators are appointed by the partnership contract from the partners, the provisions of Article 647 shall be applied.

第 697 條(清償債務與返還出資)

合夥財產，應先清償合夥之債務。其債務未至清償期，或在訴訟中者，應將其清償所必需之數額，由

Article 697

The assets of the partnership shall be first used for the payment of its debts. If a debt has not yet matured or is the subject of litigation, the amount necessary for the performance of such

合夥財產中劃出保留之。

依前項清償債務，或劃出必需之數額後，其賸餘財產應返還各合夥人金錢或其他財產權之出資。

金錢以外財產權之出資，應以出資時之價額返還之。

為清償債務及返還合夥人之出資，應於必要限度內，將合夥財產變為金錢。

debt shall be taken out from the assets of the partnership, and be reserved.

After all the debts have been paid or the necessary amounts for the same have been taken out in accordance with the preceding paragraph, the contributions of the partners shall be returned in money or the other property from the remaining assets.

The reimbursement of contributions of non-money shall return in the same value of property like the moment of contributions.

For the performance of the debts and the return of the contributions, the property of the partnership shall, as far as necessary, be converted into money.

第 698 條(出資額之比例返還)

合夥財產不足返還各合夥人之出資者，按照各合夥人出資額之比例返還之。

Article 698

If the assets of the partnership are not sufficient for reimbursing the contributions, the reimbursement shall be made pro rata, in proportion to the respective value of each contribution.

第 699 條(賸餘財產之分配)

合夥財產，於清償合夥債務及返還各合夥人出資後，尚有賸餘者，按各合夥人應受分配利益之成數分配之。

Article 699

If there is a balance of assets remaining, after the payment of the debts and the return of contributions, it shall be divided among the partners, in the proportion in which they are entitled to the profits.

第一九節 隱名合夥

Section 19 - Sleeping Partnership

第 700 條(隱名合夥)

稱隱名合夥者，謂當事人約定，一方對於他方所經營之事業出資，而分受其營業所生之利益，及分擔其所生損失之契約。

Article 700

A contract of sleeping partnership is a contract whereby one of the parties agrees to furnish a contribution to an enterprise managed by the other party, on the understanding that the former will share in the profits and losses of the enterprise.

第 701 條(合夥規定之準用)

隱名合夥，除本節有規定者外，準用關於合夥之規定。

Article 701

In addition to the provisions of this Section, the provisions concerning Partnership shall apply mutatis mutandis to Sleeping Partnership.

第 702 條(隱名合夥人之出資)

隱名合夥人之出資，其財產權移屬於出名營業人。

Article 702

On the contribution of the sleeping partner being handed over, the right over the same transfers to the active partner.

第 703 條(隱名合夥人之責任)

隱名合夥人，僅於其出資之限度內，負分擔損失之責任。

Article 703

In respect to losses, the sleeping partner is liable only to the extent of his contribution.

第 704 條(隱名合夥事務之執行)

隱名合夥之事務，專由出名營業人執行之。

隱名合夥人就出名營業人所為之

Article 704

The affairs of the sleeping partnership shall be exclusively managed by the active partner.

No rights or obligations towards third parties shall accrue to the

行為，對於第三人不生權利義務之關係。

sleeping partner on account of transactions entered into by the active partner.

第 705 條(隱名合夥人參與業務執行 - 表見出名營業人)

隱名合夥人如參與合夥事務之執行，或為參與執行之表示，或知他人表示其參與執行而不否認者，縱有反對之約定，對於第三人，仍應負出名營業人之責任。

Article 705

If a sleeping partner takes part in the management of the affairs of a sleeping partnership or declares that he takes part in it, does not deny of others' expression of his participation of the management, he becomes liable to third parties as an active partner, notwithstanding any agreement to the contrary.

第 706 條(隱名合夥人之監督權)

隱名合夥人，縱有反對之約定，仍得於每屆事務年度終，查閱合夥之賬簿，並檢查其事務及財產之狀況。

如有重大事由，法院因隱名合夥人之聲請，得許其隨時為前項之查閱及檢查。

Article 706

Notwithstanding any agreement to the contrary, a sleeping partner may at the expiration of each business year, inspect the books of the partnership and make investigations as to its business and financial state.

For vital reasons, the court may, on the application of a sleeping partner, authorize such sleeping partner to make, at any time inspections or investigations as specified in the preceding paragraph.

第 707 條(損益之計算及其分配)

出名營業人，除契約另有訂定外，應於每屆事務年度終，計算營業之損益，其應歸隱名合夥人之利益，應即支付之。

應歸隱名合夥人之利益而未支取者，除另有約定外，不得認為出資之增加。

Article 707

Unless otherwise provided for by contract, the active partner shall, at the expiration of each business year, take stock and find out the profits and losses made, and pay immediately to the sleeping partner the profits accrued to him.

Unless otherwise agreed upon, profits which are accrued to the sleeping partner but have not yet been paid out shall not be considered as increases of his contribution.

第 708 條(隱名合夥之終止)

除依第六百八十六條之規定得聲明退夥外，隱名合夥契約，因下列事項之一而終止：

- 一、存續期限屆滿者。
- 二、當事人同意者。
- 三、目的事業已完成或不能完成者。
- 四、出名營業人死亡或受監護之宣告者。
- 五、出名營業人或隱名合夥人受破產之宣告者。
- 六、營業之廢止或轉讓者。

Article 708

In addition to the provisions of Article 686 by which a sleeping partner is entitled to declare his withdrawal, a sleeping partnership is terminated in any of the following cases;

- (1) Expiration of the agreed time;
- (2) Consent of the parties;
- (3) Accomplishment of the enterprise or impossibility of accomplishing;
- (4) Death or subject to the order of the commencement of guardianship of the active partner;
- (5) Bankruptcy of the sleeping or active partner;
- (6) Cessation or transfer of enterprise.

第 709 條(隱名合夥出資及餘額之返還)

隱名合夥契約終止時，出名營業人，應返還隱名合夥人之出資及給與其應得之利益。但出資因損失而

Article 709

In case of the termination of a sleeping partnership, the contribution of the sleeping partner shall be returned by the active partner together with the profit accruing to him.

減少者，僅返還其餘存額。

However, if the contribution is decreased by losses, only the balance shall be returned.

第一九節之一 合會

Section 19-1 - Bid Society

第 709-1 條(合會、合會金、會款之定義)

稱合會者，謂由會首邀集二人以上為會員，互約交付會款及標取合會金之契約。其僅由會首與會員為約定者，亦成立合會。

前項合會金，係指會首及會員應交付之全部會款。

會款得為金錢或其他代替物。

Article 709- 1

Bid society is a contract wherein a leader invites two or more persons as the members and all of them agree to deliver the payments of the bid and to bid for the fund of the bid society; wherein the aforesaid agreement is only respectively made between the leader and the member also constitutes the bid society.

The fund of the bid society prescribed in the preceding paragraph refers to the entire payments of the bid which the leader and the members shall deliver.

The payments of the bid may consist of money or other fungible things.

第 709-2 條(會首及會員之資格限制)

會首及會員，以自然人為限。

會首不得兼為同一合會之會員。

無行為能力人及限制行為能力人不得為會首，亦不得參加其法定代理人為會首之合會。

Article 709- 2

Only the natural person qualifies for being the leader or the member.

The leader shall not concurrently be a member of the same bid society.

The person who is with no capacity or limited in capacity to make juridical acts shall not be the leader, and shall not join the bid society wherein his guardian is the leader.

第 709-3 條(會單之訂立、記載事項及保存方式)

合會應訂立會單，記載左列事項：

- 一、會首之姓名、住址及電話號碼。
- 二、全體會員之姓名、住址及電話號碼。
- 三、每一會份會款之種類及基本數額。
- 四、起會日期。
- 五、標會期日。
- 六、標會方法。
- 七、出標金額有約定其最高額或最低額之限制者，其約定。

前項會單，應由會首及全體會員簽名，記明年月日，由會首保存並製作繕本，簽名後交每一會員各執一份。

會員已交付首期會款者，雖未依前

Article 709- 3

The bid society shall be made by the bill of bid society wherein the following entries shall be included:

- (1) Name, address, and telephone number of the leader;
- (2) Names, addresses, and telephone numbers of all the members;
- (3) Kinds and the base amount of the payments of the bid for each membership;
- (4) Date of the constitution of the bid society;
- (5) Dates of the meeting of the bid;
- (6) Method of the bid;
- (7) Agreement on the limit of the amount of the maximum or minimum bid, if any.

The bill of bid society of the preceding paragraph shall be signed by the leader and all the members, recorded with the date, and kept by the leader. Copies of the aforesaid bill of bid society shall be provided, signed, and delivered to each member. If a member has delivered the first installment of the payments

二項規定訂立會單，其合會契約視為已成立。

of the bid to the leader, though the bill of bid society is not made in accordance with the preceding two paragraphs, the contract of bid society is deemed to have been constituted.

第 709-4 條(標會之方法)

標會由會首主持，依約定之期日及方法為之。其場所由會首決定並應先期通知會員。

Article 709- 4

The meeting of the bid is presided by the leader in accordance with the agreed date and method. The place of the meeting is determined by the leader and he shall notify the members of it beforehand.

會首因故不能主持標會時，由會首指定或到場會員推選之會員主持之。

If the leader cannot preside the meeting of the bid, the meeting shall be presided by the member appointed by the leader or the members who have attended.

第 709-5 條(合會金之歸屬)

首期合會金不經投標，由會首取得，其餘各期由得標會員取得。

Article 709- 5

The first installment of the fund of the bid society is acquired by the leader without need to bid for; each of the rest parts is acquired by the member who wins the bid.

第 709-6 條(標會之方法)

每期標會，每一會員僅得出標一次，以出標金額最高者為得標。最高金額相同者，以抽籤定之。但另有約定者，依其約定。

Article 709- 6

At each meeting of the bid, each member may bid for only once, and the member offers the maximum bid wins the bid. If the maximum bid is offered by more than one member, the member winning the bid shall be determined by drawing lots, unless otherwise agreed upon.

無人出標時，除另有約定外，以抽籤定其得標人。每一會份限得標一次。

Unless otherwise agreed upon, if there is no one to bid, the member winning the bid shall be determined by drawing lots. The bid may be won only once for each membership.

第 709-7 條(會首及會員交付會款之期限)

會員應於每期標會後三日內交付會款。

Article 709- 7

A member shall deliver his payments of the bid within three days after each meeting of the bid.

會首應於前項期限內，代得標會員收取會款，連同自己之會款，於期滿之翌日前交付得標會員。逾期未收取之會款，會首應代為給付。

The leader shall collect all the payments of the bid for the member winning the bid during the period of the preceding paragraph, and he shall deliver these payments of the bid together with his own to the member winning the bid before the expiration of the aforesaid period. If the payments of the bid are not collected during that period, the leader shall pay for the member who is responsible for it.

會首依前項規定收取會款，在未交付得標會員前，對其喪失、毀損，應負責任。但因可歸責於得標會員之事由致喪失、毀損者，不在此限。

Before the delivery to the member winning the bid, the leader shall be responsible for the loss or destruction of the payments of the bid collected in accordance with the preceding paragraph, except the loss or destruction is imputable to the member winning the bid.

會首依第二項規定代為給付後，得請求未給付之會員附加利息償還之。

After the leader has paid in accordance with the provisions provided in the preceding two paragraphs, he may claim against the member who does not pay for reimbursement together with interests.

第 709-8 條(會首及會員轉讓權利之限制)

會首非經會員全體之同意，不得將其權利及義務移轉於他人。

會員非經會首及會員全體之同意，不得退會，亦不得將自己之會份轉讓於他人。

Article 709- 8

The leader shall not assign his rights and duties to another person without the consent of all the members.

A member shall not withdraw from the bid society or assign his membership to another person without the consent of the leader and all the other members.

第 709-9 條(合會不能繼續進行之處理)

因會首破產、逃匿或有其他事由致合會不能繼續進行時，會首及已得標會員應給付之各期會款，應於每屆標會期日平均交付於未得標之會員。但另有約定者，依其約定。

會首就已得標會員依前項規定應給付之各期會款，負連帶責任。

會首或已得標會員依第一項規定應平均交付於未得標會員之會款遲延給付，其遲付之數額已達兩期之總額時，該未得標會員得請求其給付全部會款。

第一項情形，得由未得標之會員共同推選一人或數人處理相關事宜。

Article 709- 9

When the bid society cannot continue due to the bankruptcy or fleeing and hiding of the leader, or any other reason, each installment of the payments of the bid, which shall be paid by the leader and the members winning the bid, shall be averagely delivered to the members not winning the bid on the date of each meeting of the bid, unless otherwise agreed upon.

The leader shall be jointly responsible for each installment which shall be paid by the members winning the bid in accordance with the preceding paragraph.

If the leader or the members winning the bid is in default on the payments which shall be averagely delivered to the members not winning the bid in accordance with the first paragraph, and the amounts of the payments in default amount to the sum of two installments, the member not winning the bid may claim for the entire payments of the bid.

In the case of the first paragraph, the members not winning the bid may choose one or several persons to deal with the matters concerned.

第二〇節 指示證券

Section 20 - Security Payable By An Assigned Person

第 710 條(指示證券及其關係人之意義)

稱指示證券者，謂指示他人將金錢、有價證券或其他代替物給付第三人之證券。

前項為指示之人，稱為指示人。被指示之他人，稱為被指示人，受給付之第三人，稱為領取人。

Article 710

A security payable by an assigned person is an instrument whereby a person directs another person to deliver to a third party money or valuable securities or other fungible things.

Under the preceding paragraph, the person who directs is called the assignor; the person who is directed is called the assignee; and the person to whom presentation is made is called the payee.

第 711 條(指示證券之承擔及被指示人之抗辯權)

被指示人向領取人承擔所指示之給付者，有依證券內容而為給付之義務。

前項情形，被指示人僅得以本於指示證券之內容，或其與領取人間之

Article 711

When the assignee has notified the payee that he accepts to perform the order of payment, he is bound to perform it in accordance with the tenor of the order.

In the case specified in the preceding paragraph, the assignee may only take such defenses as arises from the tenor of the

法律關係所得對抗領取人之事由，對抗領取人。

order or from his legal relationship with the payee as valid defenses against the payee.

第 712 條(指示證券發行之效力)

指示人為清償其對於領取人之債務而交付指示證券者，其債務於被指示人為給付時消滅。

前項情形，債權人受領指示證券者，不得請求指示人就原有債務為給付。但於指示證券所定期限內，其未定期限者於相當期限內，不能由被指示人領取給付者，不在此限。

債權人不願由其債務人受領指示證券者，應即時通知債務人。

Article 712

If a security payable by an assigned person is made by the assignor for the performance of a debt due to the payee, the debt is extinguished when prestation is made by the assignee.

In the case specified in the preceding paragraph, the creditor who has accepted an order of payment shall not claim payment of the original debt from the assignor, except he has been unable to procure prestation of the order by the assignee within the time specified in the securities, or, if no time is specified, within a reasonable time.

A creditor who is not willing to accept a security payable by an assigned person from his debtor shall notify the latter of his refusal without delay.

第 713 條(指示證券與其基礎關係)

被指示人雖對於指示人負有債務，無承擔其所指示給付或為給付之義務。已向領取人為給付者，就其給付之數額，對於指示人，免其債務。

Article 713

Even though the assignee is indebted to the assignor, he is not bound to accept the assignment of payment or to perform it. If he performs it, he is released from his debt to the assignor to the amount of his performance.

第 714 條(拒絕承擔或給付之通知義務)

被指示人對於指示證券拒絕承擔或拒絕給付者，領取人應即通知指示人。

Article 714

If the assignee refuses acceptance or performance of the security payable by an assigned person, the payee shall notify the assignor of the refusal without delay.

第 715 條(指示證券之撤回)

指示人於被指示人未向領取人承擔所指示之給付或為給付前，得撤回其指示證券。其撤回應向被指示人以意思表示為之。

指示人於被指示人未承擔或給付前受破產宣告者，其指示證券，視為撤回。

Article 715

An assignor may revoke his security payable by an assigned person so long as the assignee has not notified the payee of his acceptance or performance of the order. Such revocation shall be made by an expression of intent to the assignee.

The order is deemed to be revoked, if the assignor declares bankrupt before the acceptance or performance of the order by the assignee.

第 716 條(指示證券之讓與)

領取人得將指示證券讓與第三人。但指示人於指示證券有禁止讓與之記載者，不在此限。

前項讓與，應以背書為之。

被指示人對於指示證券之受讓人已為承擔者，不得以自己與領取人間之法律關係所生之事由，與受讓人對抗。

Article 716

The payee may transfer the security payable by an assigned person to a third party, except the assignor has inserted in the securities itself that transfer is forbidden.

The transfer specified in the preceding paragraph shall be made by endorsement.

If the assignee accepts the assignment in favor of the transferee, he shall not take whatever resulting from his legal relationship with the payee as valid defenses against the transferee.

第 717 條(短期消滅時效)

指示證券領取人或受讓人，對於被指示人因承擔所生之請求權，自承擔之時起，三年間不行使而消滅。

Article 717

The claim of the payee or the transferee against the assignee who has accepted the security payable by an assigned person is extinguished by prescription, if not exercised within three years from date of acceptance.

第 718 條(指示證券喪失)

指示證券遺失、被盜或滅失者，法院得因持有人之聲請，依公示催告之程序，宣告無效。

Article 718

In case securities has been lost, stolen or destroyed, the court may, on the application of the bearer, declare the order invalid by means of proceedings by public summons.

第二一節 無記名證券**Section 21 - Securities Payable To Bearer****第 719 條(無記名證券之定義)**

稱無記名證券者，謂持有人對於發行人，得請求其依所記載之內容為給付之證券。

Article 719

A security payable to bearer is securities by which the bearer may claim from the maker a prestation according to the tenor thereof.

第 720 條(無記名證券發行人之義務)

無記名證券發行人，於持有人提示證券時，有為給付之義務，但知持有人就證券無處分之權利，或受有遺失，被盜或滅失之通知者，不得為給付。

發行人依前項規定已為給付者，雖持有人就證券無處分之權利，亦免其債務。

Article 720

The maker of a security payable to bearer is bound to make the prestation to the person who presents it. However, he shall not make such prestation if he knows that the bearer is not entitled to dispose of the securities, or if he has been notified of the loss, stolen or destruction of the same.

The maker is released from his obligation if he has performed according to the provisions of the preceding paragraph, even if the bearer was not entitled to dispose of the securities.

第 720-1 條(無記名證券持有人為證券遺失被盜或滅失之通知應聲請公示催告證明)

無記名證券持有人向發行人為遺失、被盜或滅失之通知後，未於五日內提出已為聲請公示催告之證明者，其通知失其效力。

前項持有人於公示催告程序中，經法院通知有第三人申報權利而未於十日內向發行人提出已為起訴之證明者，亦同。

Article 720- 1

If, after the bearer has notified the maker of the loss, stealing, or destruction of the security payable to bearer, the bearer does not present the proof of the application for public summons within five days, the notification loses its effect.

In the proceedings by public summons prescribed in the preceding paragraph, if the bearer does not present the proof of the commencement of the litigation to the maker within ten days after the court has notified him that report of rights from the third person, the same rule shall be applied.

第 721 條(無記名證券發行人之責任)

無記名證券發行人，其證券雖因遺失、被盜或其他非因自己之意思而流通者，對於善意持有人，仍應負

Article 721

The maker of a security payable to bearer is bound by it towards bona fide bearers, even if it has been lost, or stolen by him, or has otherwise passed into circulation without his consent.

責。

無記名證券，不因發行在發行人死亡或喪失能力後，失其效力。

A security payable to bearer does not lose its effect, even if the securities is issued after the maker has died or has lost his capacity to make juridical acts.

第 722 條(無記名證券發行人之抗辯權)

無記名證券發行人，僅得以本於證券之無效、證券之內容或其與持有人間之法律關係所得對抗持有人之事由，對抗持有人。但持有人取得證券出於惡意者，發行人並得以對持有人前手間所存抗辯之事由對抗之。

Article 722

The maker of a security payable to bearer may only take the defenses which result from the voidance of the securities itself, or for its tenor, or from his legal relationship with bearer as valid defenses against the bearer. However if the bearer acquires the securities in bad faith, the maker may also take the defenses against the former bearer as valid defenses against the bearer.

第 723 條(無記名證券之交還義務)

無記名證券持有人請求給付時，應將證券交還發行人。
發行人依前項規定收回證券時，雖持有人就該證券無處分之權利，仍取得其證券之所有權。

Article 723

The bearer of a security payable to bearer is bound to surrender the securities to the maker on his requesting performance. When the maker has, in accordance with the provisions of the preceding paragraph, received back the said securities, he acquires the ownership of same, even if the bearer was not entitled to dispose of it.

第 724 條(無記名證券換發)

無記名證券，因毀損或變形不適於流通，而其重要內容及識別、記號仍可辨認者，持有人得請求發行人，換給新無記名證券。

前項換給證券之費用，應由持有人負擔。但證券為銀行兌換券或其他金錢兌換券者，其費用應由發行人負擔。

Article 724

If a security payable to bearer is damaged or defaced in such a way as to be no more fit for circulation, but its essential contents and distinctive marks are still recognizable, the bearer is entitled to request the maker to issue a new security payable to bearer on surrender of the old one. The costs of replacement are to be borne by the bearer, except in the case of banknotes or other currency notes, where the costs are to be borne by the maker.

第 725 條(無記名證券喪失)

無記名證券遺失、被盜或滅失者，法院得因持有人之聲請，依公示催告之程序，宣告無效。

前項情形，發行人對於持有人，應告知關於實施公示催告之必要事項，並供給其證明所必要之材料。

Article 725

In case a security payable to bearer has been lost, stolen or destroyed, the court may, on the application of the bearer, declare the securities invalid by means of proceedings by public summons. In the case provided for in the preceding paragraph, the maker is bound to give the bearer such information concerning the obligation as may be necessary for proceedings by public summons, and to supply him with whatever evidence that is necessary.

第 726 條(無記名證券提示期間之停止進行)

無記名證券定有提示期間者，如法院因公示催告聲請人之聲請，對於

Article 726

When a period for the presentation of a security payable to bearer has been fixed, if the court has, on the application of a person taking proceedings by public summons, ordered the

發行人為禁止給付之命令時，停止其提示期間之進行。

前項停止，自聲請發前項命令時起，至公示催告程序終止時止。

stoppage of payment by the maker, the period of presentation is suspended.

The suspension provided for in the preceding paragraph runs from the time of the application for the aforementioned order, and ends on the termination of the proceedings by public summons.

第 727 條(定期給付證券喪失時之通知)

利息、年金及分配利益之無記名證券，有遺失、被盜或滅失而通知於發行人者，如於法定關於定期給付之時效期間屆滿前，未有提示，為通知之持有人得向發行人請求給付該證券所記載之利息、年金或應分配之利益。但自時效期間屆滿後，經過一年者，其請求權消滅。如於時效期間屆滿前，由第三人提示該項證券者，發行人應將不為給付之情事，告知該第三人，並於該第三人與為通知之人合意前，或於法院為確定判決前，應不為給付。

Article 727

When the maker of a security payable to bearer has been notified of the loss, theft or destruction of for interest, annuity or dividends, if such securities are not presented for payment before the expiration of the period of prescription provided by law for periodical payments, the bearer who made the notification is entitled to claim from the maker the payment of the interest, annuity or dividends accruing to the said securities. However, this claim shall be extinguished by prescription after one year from the date of expiration of the prescription period. If, before the expiration of the prescription period, the securities are presented for payment by a third party, the maker shall notify the third party that payment has been stopped and shall defer payment until such third party and the person making the notification have come to an agreement, or until the case has been decided by a non-appeasable judgment of the court.

第 728 條(無利息見票即付無記名證券喪失時之例外)

無利息見票即付之無記名證券，除利息、年金及分配利益之證券外，不適用第七百二十條第一項但書及第七百二十五條之規定。

Article 728

The provisions of the last sentence of paragraph I, Article 720, and of Article 725 do not apply to security payable to bearer which bear no interest but are payable at sight, except securities for interest, annuity and dividends.

第二二節 終身定期金

Section 22 - Annuity For Lifetime

第 729 條(終身定期金契約之意義)

稱終身定期金契約者，謂當事人約定，一方於自己或他方或第三人生存期內，定期以金錢給付他方或第三人之契約。

Article 729

A contract of annuity for lifetime is a contract whereby the parties agree that one of them shall make periodical payments in money to the other party or to a third party, during the lifetime of one or the other parties or of a third party.

第 730 條(終身定期金契約之訂立)

終身定期金契約之訂立，應以書面為之。

Article 730

Contract of annuity for lifetime shall be made in writing.

第 731 條(終身定期金契約之存續期間及應給付金額)

終身定期金契約，關於期間有疑義時，推定其為於債權人生存期內，

Article 731

In a contract of annuity for lifetime, where there is a doubt as to its duration, the annuity for lifetime is presumed to be payable

按期給付。
契約所定之金額有疑義時，推定其為每年應給付之金額。

to the creditor during his lifetime.
In case of doubt, the amount mentioned in the contract is presumed to be the amount to be paid annually.

第 732 條(終身定期金之給付時期)

終身定期金，除契約另有訂定外，應按季預行支付。
依其生存期間而定終身定期金之人，如在定期金預付後，該期屆滿前死亡者，定期金債權人取得該期金額之全部。

Article 732

Unless otherwise provided in the contract, an annuity for lifetime is payable quarterly in advance.
If the person on whose life the annuity for lifetime depends, dies after a payment made in advance and before the expiration of the period for which the payment was made, the creditor is entitled to the whole amount advanced for that period.

第 733 條(終身定期金契約仍為存續之宣言)

因死亡而終止定期金契約者，如其死亡之事由，應歸責於定期金債務人時，法院因債權人或其繼承人之聲請，得宣告其債權在相當期限內仍為存續。

Article 733

When the death which terminated the annuity for lifetime is due to circumstances for which the debtor of the annuity for lifetime is responsible, the court may, on the application of the creditor or of his heirs, decide that the annuity for lifetime shall continue for a reasonable period of time.

第 734 條(終身定期金權利之移轉)

終身定期金之權利，除契約另有訂定外，不得移轉。

Article 734

Unless otherwise provided for by contract, the right to an annuity for lifetime shall not be transferred.

第 735 條(遺贈之準用)

本節之規定，於終身定期金之遺贈準用之。

Article 735

The provisions of the present title shall apply mutatis mutandis to the legacy of annuity for lifetimes.

第二三節和解

Section 23 - Compromise And Settlement

第 736 條(和解之定義)

稱和解者，謂當事人約定，互相讓步，以終止爭執或防止爭執發生之契約。

Article 736

A compromise and settlement is a contract whereby the parties by making mutual concessions terminate an existing dispute or prevent the occurrence of a future dispute.

第 737 條(和解之效力)

和解有使當事人所拋棄之權利消滅及使當事人取得和解契約所訂明權利之效力。

Article 737

The effect of a compromise and settlement is to extinguish the rights abandoned by each party and to secure to each party those rights which are specified in the compromise and settlement.

第 738 條(和解之撤銷 - 和解與錯誤之關係)

和解不得以錯誤為理由撤銷之。但有左列事項之一者，不在此限：
一、和解所依據之文件，事後發見為偽造或變造，而和解當事人若知其為偽造或變造，即不為和解者。

Article 738

A compromise and settlement shall not be revoked for mistake, except in any of the following cases:
(1) If the compromise and settlement is based on documents which are afterwards discovered to be forged or altered, provided that the forgery or alteration be such that the party concerned would not have agreed to compromise and settlement

二、和解事件，經法院確定判決，而為當事人雙方或一方於和解當時所不知者。

三、當事人之一方，對於他方當事人之資格或對於重要之爭點有錯誤，而為和解者。

if he had known of the forgery or alteration.

(2) If the object of the compromise and settlement had been settled by a non-appealable judgment of the court, of which the parties or one of them had no knowledge at the time of the compromise and settlement.

(3) If one of the parties was acting under a mistake as to the qualification of the other party or as to the point in dispute, which was essential in the case.

第二四節 保證

Section 24 - Guaranty

第 739 條(保證之定義)

稱保證者，謂當事人約定，一方於他方之債務人不履行債務時，由其代負履行責任之契約。

Article 739

A guaranty is a contract whereby the parties agree that one of them shall be bound to satisfy the obligation, when the debtor of the other party fails to perform same.

第 739-1 條(保證人之權利，不得預先拋棄)

本節所規定保證人之權利，除法律另有規定外，不得預先拋棄。

Article 739-1

Unless otherwise provided by this section, the rights of the guarantor provided in this section shall not be waived beforehand.

第 740 條(保證債務之範圍)

保證債務，除契約另有訂定外，包含主債務之利息、違約金、損害賠償及其他從屬於主債務之負擔。

Article 740

Unless otherwise provided by the contract, the guaranty shall include the interest on the principal debt, the penalty, the compensation for the injury, and other accessory charges.

第 741 條(保證債務負擔之從屬性)

保證人之負擔，較主債務人為重者，應縮減至主債務之限度。

Article 741

In case the liability of the guarantor is heavier than that of the principal debtor, it shall be reduced to the level of the principal debt.

第 742 條(保證人之抗辯權)

主債務人所有之抗辯，保證人得主張之。

主債務人拋棄其抗辯者，保證人仍得主張之。

Article 742

The guarantor is entitled to take any defense that is open to the principal debtor as a valid defense.

He may still take such defenses as valid defenses even if they are waived by the principal debtor.

第 742-1 條(保證人之抵銷權)

保證人得以主債務人對於債權人之債權，主張抵銷。

Article 742-1

The guarantor may take the principal debtor's claim against the creditor as his claim to offset.

第 743 條(無效債務之保證)

保證人對於因行為能力之欠缺而無效之債務，如知其情事而為保證者，其保證仍為有效。

Article 743

A guaranty given for an obligation which is invalid on account of debtor's lack of capacity to make juridical acts is still valid, if the guarantor binds himself in spite of the knowledge of the fact.

第 744 條(保證人之拒絕清償權)

Article 744

主債務人就其債之發生原因之法律行為有撤銷權者，保證人對於債權人，得拒絕清償。

If the principal debtor has the right of revoking the juridical act upon which the debt is founded, the guarantor is entitled to refuse to perform the obligation.

第 745 條(先訴抗辯權)

保證人於債權人未就主債務人之財產強制執行而無效果前，對於債權人得拒絕清償。

Article 745

A guarantor may refuse performance to the creditor, so long as the creditor has not filed proceedings for compulsory execution, against the property of the principal debtor, without results.

第 746 條(先訴抗辯權之喪失)

有下列各款情形之一者，保證人不得主張前條之權利：

- 一、保證人拋棄前條之權利。
- 二、主債務人受破產宣告。
- 三、主債務人之財產不足清償其債務。

Article 746

The guarantor shall not assert the right specified in the preceding article in any of the following cases:

- (1) If the guarantor has waived his rights specified in the preceding article.
- (2) If the principal debtor has been declared bankrupt.
- (3) If the property of the principal debtor is not sufficient to satisfy the obligation.

第 747 條(請求履行及中斷時效之效力)

向主債務人請求履行，及為其他中斷時效之行為，對於保證人亦生效力。

Article 747

A claim for performance and other acts which interrupt prescription made against the principal debtor operates against the guarantor.

第 748 條(共同保證)

數人保證同一債務者，除契約另有訂定外，應連帶負保證責任。

Article 748

Unless otherwise agreed upon by the contract, when several persons act as guarantors for one and the same debt, they are joint-guarantors for the said debt.

第 749 條(保證人之代位權)

保證人向債權人為清償後，於其清償之限度內，承受債權人對於主債務人之債權。但不得有害於債權人之利益。

Article 749

After guarantor has satisfied the creditor, to the extent of the performance, he is subrogated to the claim of the creditor against the principal debtor, but he shall not exercise it to the detriment of the creditor.

第 750 條(保證責任除去請求權)

保證人受主債務人之委任而為保證者，有左列各款情形之一時，得向主債務人請求除去其保證責任：

- 一、主債務人之財產顯形減少者。
- 二、保證契約成立後，主債務人之住所、營業所或居所有變更，致向其請求清償發生困難者。
- 三、主債務人履行債務遲延者。
- 四、債權人依確定判決得令保證人清償者。

Article 750

If the guarantor has assumed the guaranty by reason of a mandate of the principal debtor, the guarantor may request the principal debtor to procure his discharge from the guaranty under any of the following cases:

- (1) If the property of the principal debtor has obviously decreased.
- (2) If, after the conclusion of the contract of guaranty claims for performance against the principal debtor have become difficult on account of change of his domicile, or his business office, or his residence.
- (3) If the principal debtor is in default.
- (4) If the creditor has obtained a non-appealable judgment entitling him to compel the guarantor to perform.

主債務未屆清償期者，主債務人得提出相當擔保於保證人，以代保證責任之除去。

If the principal obligation is not yet due, the principal debtor may give security to the guarantor instead of discharge of obligation of guaranty.

第 751 條(保證責任之免除 - 拋棄擔保物權)

債權人拋棄為其債權擔保之物權者，保證人就債權人所拋棄權利之限度內，免其責任。

Article 751

If the creditor waives the rights in rem on which his claim is secured, the guarantor is released from his obligation to the extent of the rights which have been waived.

第 752 條(定期保證責任之免除 (一) - 不為審判上之請求)

約定保證人僅於一定期間內為保證者，如債權人於其期間內，對於保證人不為審判上之請求，保證人免其責任。

Article 752

If the guaranty has been given for a definite period of time, the guarantor is released from his obligations, if within such period the creditor fails to enter judicial proceedings against the guarantor.

第 753 條(未定期保證責任之免除 - 不為審判上之請求)

保證未定期間者，保證人於主債務清償期屆滿後，得定一個月以上之相當期限，催告債權人於其期限內，向主債務人為審判上之請求。

Article 753

If the guaranty is given for an indefinite period of time, the guarantor may, after the maturity of the principal debt, fix a reasonable period of not less than one month and request the creditor to enter judicial proceedings against the principal debtor within such period.

債權人不於前項期限內向主債務人為審判上之請求者，保證人免其責任。

If the creditor fails to enter judicial proceedings against the principal debtor within the period specified in the preceding paragraph, the guarantor is released from his obligation.

第 753-1 條

因擔任法人董事、監察人或其他有代表權之人而為該法人擔任保證人者，僅就任職期間法人所生之債務負保證責任。

Article 753-1

Due to being directors, controllers or other representatives of a juridical person, and agreeing to be the guarantor of the obligation of the juridical person, they are only liable to the obligation of the juridical person occurred within the duration of their offices.

第 754 條(連續發生債務保證之終止)

就連續發生之債務為保證而未定有期間者，保證人得隨時通知債權人終止保證契約。

前項情形，保證人對於通知到達債權人後所發生主債務人之債務，不負保證責任。

Article 754

If guaranty is given for a series of obligations and for an indefinite period of time, the guarantor may at any time terminate the contract by giving notice to the creditor.

In the case of the preceding paragraph, the guarantor is not liable for the obligations incurred by the principal debtor after the notice has reached the creditor.

第 755 條(定期債務保證責任之免除 - 延期清償)

就定有期限之債務為保證者，如債權人允許主債務人延期清償時，保證人除對於其延期已為同意外，不

Article 755

If guaranty has been given for an obligation which is to be performed at a definite time and the creditor grants to the principal debtor an extension of time, the guarantor is released

負保證責任。

from his obligation, unless he has agreed to the extension.

第 756 條(信用委任)

委任他人以該他人之名義及其計算，供給信用於第三人者，就該第三人因受領信用所負之債務，對於受任人，負保證責任。

Article 756

A person who gives a mandate to another to provide credit to a third party in the name and on the account of such other person is liable to the mandatory as a guarantor for the obligation of the third party arising from the providing of the credit.

第二四節之一 人事保證

Section 24-1 - Employment Guaranty

第 756-1 條(人事保證之定義)

稱人事保證者，謂當事人約定，一方於他方之受僱人將來因職務上之行為而應對他方為損害賠償時，由其代負賠償責任之契約。

Article 756- 1

An employment guaranty is a contract whereby the parties agree that one of them shall be bound to make compensation when the employee of the other party shall be liable to compensate the other party for the performance of his duties in the future.

前項契約，應以書面為之。

The contract of the preceding paragraph shall be made in writing.

第 756-2 條(保證人之賠償責任)

人事保證之保證人，以僱用人不能依他項方法受賠償者為限，負其責任。

Article 756- 2

The guarantor in employment guaranty may be held liable only in so far as the employer is unable to obtain compensation by other means.

保證人依前項規定負賠償責任時，除法律另有規定或契約另有訂定外，其賠償金額以賠償事故發生時，受僱人當年可得報酬之總額為限。

When the guarantor is held liable in accordance with the provision of the preceding paragraph, unless otherwise provided by the act or the contract, the compensation shall be limited to the total sum of the remuneration which the employee may receive in the year when the event causing the injury happened.

第 756-3 條(人事保證之期間)

人事保證約定之期間，不得逾三年。逾三年者，縮短為三年。

Article 756- 3

The duration of employment guaranty agreed upon shall not exceed three years. If it exceeds three years, it shall reduce to three years.

前項期間，當事人得更新之。

The parties may renew the duration prescribed in the preceding paragraph.

人事保證未定期間者，自成立之日起有效期間為三年。

If there is no duration fixed in a contract of employment guaranty, the duration of the contract shall be three years reckoning from the date of the constitution of the contract.

第 756-4 條(保證人之終止權)

人事保證未定期間者，保證人得隨時終止契約。

Article 756- 4

If there is no duration fixed in a contract of employment guaranty, the guarantor may terminate the contract at any time.

前項終止契約，應於三個月前通知僱用人。但當事人約定較短之期間者，從其約定。

For the termination of a contract in the preceding paragraph, the employer shall be notified three months beforehand. However if the parties agree upon a shorter period of notification, this period shall be followed.

第 756-5 條(僱用人負通知義務之特殊事由)

Article 756- 5

有左列情形之一者，僱用人應即通知保證人：

- 一、僱用人依法得終止僱傭契約，而其終止事由有發生保證人責任之虞者。
- 二、受僱人因職務上之行為而應對僱用人負損害賠償責任，並經僱用人向受僱人行使權利者。
- 三、僱用人變更受僱人之職務或任職時間、地點，致加重保證人責任或使其難於注意者。

保證人受前項通知者，得終止契約。保證人知有前項各款情形者，亦同。

第 756-6 條(減免保證人賠償金額)

有左列情形之一者，法院得減輕保證人之賠償金額或免除之：

- 一、有前條第一項各款之情形而僱用人不即通知保證人者。
- 二、僱用人對受僱人之選任或監督有疏懈者。

第 756-7 條(人事保證契約之消滅)

人事保證關係因左列事由而消滅：

- 一、保證之期間屆滿。
- 二、保證人死亡、破產或喪失行為能力。
- 三、受僱人死亡、破產或喪失行為能力。
- 四、受僱人之僱傭關係消滅。

第 756-8 條(請求權之時效)

僱用人對保證人之請求權，因二年間不行使而消滅。

第 756-9 條(人事保證之準用)

人事保證，除本節有規定者外，準用關於保證之規定。

The employer shall notify the guarantor if there is any situation as follows:

- (1) The employer may terminate the contract of hire of services according to the law, and the reason of the termination might cause the guarantor to be held liable;
- (2) The employee shall be liable to compensate the employer for the performance of his duties, and the employer has made the claim against the employee;
- (3) The employer changes the contents, or time, place of the employee's job, and this therefore intensifies the liability of the guarantor or makes him hard to watch out for the performance of the duties.

The guarantor who receives the notification of the preceding paragraph may terminate the contract. The same rule shall be applied when the guarantor is aware of anything as prescribed in the preceding paragraph.

Article 756- 6

The court may reduce or release the compensation for the guarantor if there is any situation as follows:

- (1) The situation as prescribed in the first paragraph of the preceding article happened, but the employer does not notify the guarantor immediately;
- (2) The employer is negligent of the selection and supervision of the employee or his duty of supervision.

Article 756- 7

The relationship of employment guaranty extinguishes if there is any situation as follows:

- (1) The duration of the guaranty expires;
- (2) The guarantor died, goes into bankruptcy, or loses the capacity to make juridical acts;
- (3) The employee dies, goes into bankruptcy, or loses the capacity to make juridical acts;
- (4) The relationship of hire of services extinguishes.

Article 756- 8

The claim of the employer against the guarantor shall be extinguished by prescription if not exercised within two years.

Article 756- 9

Unless otherwise provided by this section, the provision concerning the guaranty shall apply mutatis mutandis to the employment guaranty.

第三編 物權

第一章 通則

Part III Rights In Rem

Chapter 1 General Provisions

第 757 條(物權法定主義)

物權除依法律或習慣外，不得創設。

Article 757

No rights in rem shall be created unless otherwise provided by the statutes or customs.

第 758 條(設權登記 - 登記生效要件主義)

不動產物權，依法律行為而取得、設定、喪失及變更者，非經登記，不生效力。
前項行為，應以書面為之。

Article 758

The acquirement, creation, loss and alternation of rights in rem of real property through the juridical act will not effect until the recordation has been made. The acts as specified of the preceding paragraph shall be made in writing.

第 759 條(宣示登記 - 相對登記主義)

因繼承、強制執行、徵收、法院之判決或其他非因法律行為，於登記前已取得不動產物權者，應經登記，始得處分其物權。

Article 759

A person, who has acquired rights in rem of real property by succession, compulsory execution, taking, a judgment of the court or other non juridical act before recordation, shall only dispose of such rights until recordation has been made.

第 759-1 條(不動產物權登記之變動效力)

不動產物權經登記者，推定登記權利人適法有此權利。

因信賴不動產登記之善意第三人，已依法律行為為物權變動之登記者，其變動之效力，不因原登記物權之不實而受影響。

Article 759-1

If a right in rem of real property has been recorded, the right-holder recorded in the register is presumed to own the rights legitimately.

If a bona fide third party in reliance of the real property recordation has recorded an alternation to the right in rem of real property pursuant to a juridical act, the validity of the alternation shall not be affected by the original false recordation of a right in rem.

第 760 條

(刪除)

Article 760

(Repealed)

第 761 條(動產物權之讓與方法 - 交付、簡易交付、占有改定、指示交付)

動產物權之讓與，非將動產交付，不生效力。但受讓人已占有動產者，於讓與合意時，即生效力。

讓與動產物權，而讓與人仍繼續占有動產者，讓與人與受讓人間，得訂立契約，使受讓人因此取得間接占有，以代交付。

讓與動產物權，如其動產由第三人占有時，讓與人得以對於第三人之返還請求權，讓與於受讓人，以代交付。

Article 761

The transfer of rights in rem of personal property will not effect until the personal property has been delivered. However, if the transferee has been in possession of the personal property, the transfer effects when the parties agree to such transfer.

In the transfer of a right in rem of personal property, where the transferor is still in possession of it, a contract causing the transferee to acquire its indirect possession may be made between the parties in the place of its delivery.

In the transfer of a right in rem of personal property, where a third party is in possession of it, the transferor may transfer the claim against such third party for the return of it to the transferee in place of its delivery.

第 762 條(物權之消滅 - 所有權與其他物權混同)

同一物之所有權及其他物權，歸屬於一人者，其他物權因混同而消滅。但其他物權之存續，於所有人或第三人有法律上之利益者，不在此限。

第 763 條(物權之消滅 - 所有權以外物權之混同)

所有權以外之物權，及以該物權為標之物之權利，歸屬於一人者，其權利因混同而消滅。
前條但書之規定，於前項情形準用之。

第 764 條(物權之消滅 - 拋棄)

物權除法律另有規定外，因拋棄而消滅。
前項拋棄，第三人以該物權為標之物之其他物權或於該物權有其他法律上之利益者，非經該第三人同意，不得為之。
拋棄動產物權者，並應拋棄動產之占有。

第二章 所有權**第一節 通則****第 765 條(所有權之權能)**

所有人，於法令限制之範圍內，得自由使用、收益、處分其所有物，並排除他人之干涉。

第 766 條(所有人之收益權)

物之成分及其天然孳息，於分離後，除法律另有規定外，仍屬於其物之所有人。

第 767 條(所有權之保護 - 物上請求權)

所有人對於無權占有或侵奪其所有物者，得請求返還之。對於妨害其所有權者，得請求除去之。有妨害其所有權之虞者，得請求防止之。

Article 762

If the ownership of a thing, and any other right in rem of the same thing assigned to one and the same person, such other right in rem of thing is extinguished by merger, except the owner or a third party has a legal advantage in the continuance of such other right in rem.

Article 763

If any right in rem other than ownership and any right of said right in rem assigned to one and the same person, such right of right in rem is extinguished by merger.
The exception of the provision in the preceding article shall apply mutatis mutandis to the case of the preceding paragraph.

Article 764

Unless otherwise provided by the statute, rights in rem are extinguished by waiver.
If the third party has any right in rem of said right in rem or other legal advantage of said right in rem, the waiver of the preceding paragraph shall only be made with the consent of the third party.
A person, who has waived the right in rem of a personal property, shall also abandon the possession of the personal property.

Chapter 2 Ownership**Section 1 - General Provisions****Article 765**

The owner of a thing has the right, within the limits of the Acts and regulations, to use it, to profit from it, and to dispose of it freely, and to exclude the interference from others.

Article 766

Unless otherwise provided by the Act, the component parts of a thing and the natural profits thereof, belong, even after their separation from the thing, to the owner of the thing.

Article 767

The owner of a thing has the right to demand its return from anyone, who possesses it without authority or who seizes it. Where his ownership is interfered, he is entitled to claim the removal of the interference; and where the ownership might be interfered, he is entitled to claim the prevention of such

前項規定，於所有權以外之物權，準用之。

interference.

The provision of the preceding paragraph shall apply mutatis mutandis to the rights in rem other than ownership.

第 768 條(動產所有權之取得時效)

以所有之意思，十年間和平、公然、繼續占有他人之動產者，取得其所有權。

Article 768

A person, who has peacefully, publicly and continually possessed another's personal property with the intent of being an owner for ten years, acquires the ownership of such personal property.

第 768-1 條(動產所有權之占有時效)

以所有之意思，五年間和平、公然、繼續占有他人之動產，而其占有之始為善意並無過失者，取得其所有權。

Article 768-1

A person, who has peacefully, publicly and continually possessed another's personal property with the intent of being an owner for five years, and was in good faith and not of negligence at the beginning of his possession, acquires the ownership of such personal property.

第 769 條(不動產之一般取得時效)

以所有之意思，二十年間和平、公然、繼續占有他人未登記之不動產者，得請求登記為所有人。

Article 769

A person, who has peacefully, publicly and continually possessed another's real property which is not recorded for twenty years with the intent of being an owner, is entitled to claim to be recorded as the owner of the said real property.

第 770 條(不動產之特別取得時效)

以所有之意思，十年間和平、公然、繼續占有他人未登記之不動產，而其占有之始為善意並無過失者，得請求登記為所有人。

Article 770

A person, who has peacefully, publicly and continually possessed another's unrecorded real property with the intent of being an owner for ten years, and was acting in good faith and not negligently at the beginning of his possession, is entitled to claim to be recorded as the owner of the said real property.

第 771 條(取得時效之中斷)

占有人有下列情形之一者，其所有權之取得時效中斷：

- 一、變為不以所有之意思而占有。
- 二、變為非和平或非公然占有。
- 三、自行中止占有。
- 四、非基於自己之意思而喪失其占有。但依第九百四十九條或第九百六十二條規定，回復其占有者，不在此限。

依第七百六十七條規定起訴請求占有人返還占有物者，占有人之所有權取得時效亦因而中斷。

Article 771

The prescription to acquire ownership is interrupted, if any of the following occurs to the possessor:

- (1) The possessor has changed his intent of possession to that other than the intent of being an owner,
- (2) The possession is changed to be not peaceful or public,
- (3) The possessor himself stops possessing, or
- (4) The possessor has unintentionally lost possession, unless possession is recovered in accordance with article 949 or article 962.

The prescription to acquire the ownership is interrupted if the possessor has been sued to return the property in accordance with the article 767.

第 772 條(所有權以外財產權取得時效之準用)

前五條之規定，於所有權以外財產權之取得，準用之。於已登記之不動產，亦同。

Article 772

The provisions of the preceding five articles shall apply mutatis mutandis to the acquisition of rights over property other than ownership, and to the recorded real property as well.

第二節 不動產所有權**Section 2 - Ownership of the Real Property****第 773 條(土地所有權之範圍)**

土地所有權，除法令有限制外，於其行使有利益之範圍內，及於土地之上下。如他人之干涉，無礙其所有權之行使者，不得排除之。

Article 773

Unless otherwise restricted by the Acts and regulations, ownership of land extends to such height and depth above and below the surface of the land within the range advantageous to the exercise of such ownership. Interference from others shall not be excluded if it does not obstruct the exercise of the ownership.

第 774 條(鄰地損害之防免)

土地所有人經營事業或行使其所有權，應注意防免鄰地之損害。

Article 774

In carrying on business and in exercising his ownership, the landowner shall take care to prevent the occurrence of any injury to the adjacent land.

第 775 條(自然流水之排水權及承水義務)

土地所有人不得妨阻由鄰地自然流至之水。

自然流至之水為鄰地所必需者，土地所有人縱因其土地利用之必要，不得妨阻其全部。

Article 775

The landowner shall not prevent the natural flow of water coming from an adjacent land.

The landowner shall not prevent all of the natural flow of water which is indispensable to the adjacent land, even though it is necessary for utility of his land.

第 776 條(蓄水等工作物破潰阻塞之修繕疏通或預防)

土地因蓄水、排水、或引水所設之工作物、破潰、阻塞，致損害及於他人之土地，或有致損害之虞者，土地所有人應以自己之費用，為必要之修繕、疏通或預防。但其費用之負擔，另有習慣者，從其習慣。

Article 776

When the disruption or obstruction of works constructed on a piece of land for the purposes of storing, draining or drawing water has caused prejudice or may cause prejudice to another's land, the landowner shall, at his own expenses, make necessary repair, dredging or prevention. However, if the bearing of such expenses is otherwise provided by custom, such custom shall be followed.

第 777 條(使雨水直注鄰不動產之禁止)

土地所有人不得設置屋簷、工作物或其他設備，使雨水或其他液體直注於相鄰之不動產。

Article 777

The landowner shall not construct the eaves, works or other equipment which will cause rain water or other liquid to fall directly upon the adjacent real property.

第 778 條(土地所有人之疏水權)

水流如因事變在鄰地阻塞，土地所有人得以自己之費用，為必要疏通之工事。但鄰地所有人受有利益者，應按其受益之程度，負擔相當之費用。

Article 778

When the flow of water is obstructed by accident on the adjacent land, the landowner is entitled to construct necessary works for its dredging at his own expenses. Provided that the owner of the adjacent land, who has taken the advantage, shall bear the reasonable expenses in proportion to the interests which he is benefited therefrom.

前項費用之負擔，另有習慣者，從其習慣。

The bearing of such expenses of the preceding paragraph is otherwise provided by custom, such custom shall be followed.

第 779 條(土地所有人之過水權 - 人工排水) Article 779

土地所有人因使浸水之地乾涸，或排泄家用或其他用水，以至河渠或溝道，得使其水通過鄰地。但應擇於鄰地損害最少之處所及方法為之。

前項情形，有通過權之人對於鄰地所受之損害，應支付償金。

前二項情形，法令另有規定或另有習慣者，從其規定或習慣。

第一項但書之情形，鄰地所有人有異議時，有通過權之人或異議人得請求法院以判決定之。

For the purpose of drying out the marshy land or discharging superfluous water of household use or of other use to the river or waterway, the landowner is entitled to conduct such water through the adjacent land, provided that the place and method which will cause the least injury to the adjacent land shall be chosen.

In the case of the preceding paragraph, the person entitled to passing through shall make compensation for any injury caused to the adjacent land.

In the case of the preceding two paragraphs, if it is otherwise provided by the statutes or custom, such statutes and custom shall be followed.

In the case of the exception of the first paragraph, where the owner of the adjacent land has an objection, the person entitled to passing through or the person who has objection is entitled to apply to the court to make a decision..

第 780 條(他人過水工作物使用權) Article 780

土地所有人因使其土地之水通過，得使用鄰地所有人所設置之工作物。但應按其受益之程度，負擔該工作物設置及保存之費用。

The landowner is entitled, for the purposes of conducting water on his land, to use the works constructed by the owner of the adjacent land, provided that he shall bear the expenses of the construction and maintenance of such works in proportion to the interests which he is benefited therefrom.

第 781 條(水流地所有人之自由用水權) Article 781

水源地、井、溝渠及其他水流地之所有人得自由使用其水。但法令另有規定或另有習慣者，不在此限。

The owner of a land where water originates, or of a well, waterway or other land through which water flows, is entitled to freely use the water, except there are statutes or customs.

第 782 條(用水權人之物上請求權) Article 782

水源地或井之所有人對於他人因工事杜絕、減少或污染其水者，得請求損害賠償。如其水為飲用或利用土地所必要者，並得請求回復原狀；其不能為全部回復者，仍應於可能範圍內回復之。

The owner of a land where water originates, or of a well, is entitled to claim compensation against another, who, owing to the works carried on by him, cuts off, reduces or pollutes the water of such land or well. If the water is necessary for drinking or for utilizing the land, the said owner is also entitled to claim to have the status quo ante restored. If it is impossible to have the status quo ante completely restored, then restoration shall be performed within the possible scope.

前項情形，損害非因故意或過失所致，或被害人有过失者，法院得減輕賠償金額或免除之。

In the case of the preceding paragraph, if the damages are not caused by intentional acts or negligence, the court may reduce the amount of damages or exempt the liability.

第 783 條(使用鄰地餘水之用水權) Article 783

土地所有人因其家用或利用土地所必要，非以過鉅之費用及勞力不

The landowner, who cannot procure the water necessary for his household or for utilizing his land without undertaking

能得水者，得支付償金，對鄰地所有人請求給與有餘之水。

excessive expenses or labor, is entitled to make compensation and demand the owner of the adjacent land for the spare water.

第 784 條(水流地所有人變更水流或寬度之限制)

水流地對岸之土地屬於他人時，水流地所有人不得變更其水流或寬度。

兩岸之土地均屬於水流地所有人者，其所有人得變更其水流或寬度。但應留下游自然之水路。

前二項情形，法令另有規定或另有習慣者，從其規定或習慣。

Article 784

The owner of a land through which the water flows shall not change the course or the width of the water, when the land on the opposite shore belongs to another person.

When the land on both shores belongs to the same owner of the land through which the water flows, he is entitled to change the course or the width of the water, provided that the natural course of the water at its lower mouth shall be kept.

In the case of the preceding two paragraphs, if it is otherwise provided by statutes or customs, such statutes or customs shall be followed.

第 785 條(堰之設置與利用)

水流地所有人有設堰之必要者，得使其堰附著於對岸。但對於因此所生之損害，應支付償金。

對岸地所有人於水流地之一部屬於其所有者，得使用前項之堰。但應按其受益之程度，負擔該堰設置及保存之費用。

前二項情形，法令另有規定或另有習慣者，從其規定或習慣。

Article 785

The owner of a land through which the water flows is entitled to, when it is necessary to construct a weir, rest the weir on the opposite shore, provided that compensation shall be made for any injury resulting therefrom.

The owner of the land on the opposite shore is entitled to use the weir specified in the preceding paragraph, when a part of the land through which the water flows belongs to him, provided that he shall bear the expenses of construction and maintenance of such weir in proportion to the interests which he is benefited therefrom.

In the case of the preceding two paragraphs, if it is otherwise provided by statutes or customs, such statutes or customs shall be followed.

第 786 條(管線安設權)

土地所有人非通過他人之土地，不能設置電線、水管、瓦斯管或其他管線，或雖能設置而需費過鉅者，得通過他人土地之上下而設置之。但應擇其損害最少之處所及方法為之，並應支付償金。

依前項之規定，設置電線、水管、瓦斯管或其他管線後，如情事有變更時，他土地所有人得請求變更其設置。

前項變更設置之費用，由土地所有人負擔。但法令另有規定或另有習慣者，從其規定或習慣。

第七百七十九條第四項規定，於第

Article 786

Where electric wires, water pipes, gas pipes or other pipes cannot be constructed without making use of the land of another or where they can only be constructed through the incurring of excessive expenses, the landowner is entitled to construct the said wires or pipes on, over or under the land of another person, provided that the place and method of constructing such wires or pipes which will cause the least injury to such other land shall be chosen and provided that compensation shall be made.

If, after the construction of electric wires, water pipes, gas pipes or other pipes has been made in accordance with the provision of the preceding paragraph, there is change of circumstances, the owner of such other land is entitled to demand to change the aforesaid construction.

The expenses of the change of such construction shall be born by the landowner. However, if it is otherwise provided by statutes or customs, such statutes or customs shall be followed.

The fourth paragraph of Article 779 shall apply mutatis

一項但書之情形準用之。

mutandis to the exception of the first paragraph.

第 787 條(袋地所有人之必要通行權)

土地因與公路無適宜之聯絡，致不能為通常使用時，除因土地所有人之任意行為所生者外，土地所有人得通行周圍地以至公路。

前項情形，有通行權人應於通行必要之範圍內，擇其周圍地損害最少之處所及方法為之；對於通行地因此所受之損害，並應支付償金。

第七百七十九條第四項規定，於前項情形準用之。

Article 787

If a piece of land is not fit for ordinary use because there is no suitable access to a public road, the landowner is entitled to access the surrounding land in order to reach the public road unless the lack of access is otherwise caused by the arbitrary behavior of a landowner.

In the case of the preceding paragraph, the person with the right of access shall, within the limits necessary for access, choose the place and method which will cause the least injury to the surrounding land. Compensation shall be made for any injury caused as a result of the access.

The fourth paragraph of Article 779 shall apply mutatis mutandis to the case of the preceding paragraph.

第 788 條(開路通行權)

有通行權人於必要時，得開設道路。但對於通行地因此所受之損害，應支付償金。

前項情形，如致通行地損害過鉅者，通行地所有人得請求有通行權人以相當之價額購買通行地及因此形成之畸零地，其價額由當事人協議定之；不能協議者，得請求法院以判決定之。

Article 788

The person entitled to access may construct a road when necessary, provided that he shall compensate for any injury caused thereby to the land accessed.

In the preceding case, if extensive injury is caused by such access, the landowner may require the person accessing his property to purchase the land accessed and the odd lot caused thereby for a reasonable price, with such price agreed to by both parties. If the parties cannot agree upon the purchase price, the price shall be determined by a court.

第 789 條(通行權之限制)

因土地一部之讓與或分割，而與公路無適宜之聯絡，致不能為通常使用者，土地所有人因至公路，僅得通行受讓人或讓與人或其他分割人之所有地。

數宗土地同屬於一人所有，讓與其一部或同時分別讓與數人，而與公路無適宜之聯絡，致不能為通常使用者，亦同。

前項情形，有通行權人，無須支付償金。

Article 789

If, in consequence of a transfer of a part of a piece of land or of a partition of a piece of land, the land has no suitable access to the public road, and is not fit for ordinary use, the landowner in order to reach the public road, is only entitled to pass through the land owned by the transferee or the transferor or the other petitioners.

The same rule shall be applied, if a piece of land has no suitable access to the public road and becoming unfit for ordinary use after the owner of many pieces of lands has transferred some of the lands or simultaneously transferred all lands to others.

In the case of the preceding paragraph, the person entitled to passing through shall not liable to make compensation.

第 790 條(土地之禁止侵入與例外)

土地所有人得禁止他人侵入其地內。但有下列情形之一，不在此限：

一、他人有通行權者。

Article 790

The landowner has the right to prohibit other persons from trespassing on his land, except any of the following cases:

(1) When the other persons are entitled to passing through the land.

二、依地方習慣，任他人入其未設圍障之田地、牧場、山林刈取雜草，採取枯枝枯幹，或採集野生動物，或放牧牲畜者。

(2) When, according to the local custom, it is allowed to enter his (the owner's) field, pasture or forest, around which no fence has been made, for the purpose of cutting and taking grass, of gathering dead branches or timber, of collecting wild products or of grazing stock.

第 791 條(因尋查取回物品或動物之允許侵入)

土地所有人，遇他人之物品或動物偶至其地內者，應許該物品或動物之占有人或所有人入其地內，尋查取回。

前項情形，土地所有人受有損害者，得請求賠償。於未受賠償前，得留置其物品或動物。

Article 791

If, things or animals of another have by accident entered the land, the landowner shall allow the possessor or the owner of the things or animals to enter the land in order to find them and take them back.

In the case specified in the preceding paragraph, the landowner is entitled to claim compensation for the injury, if any; and he is also entitled to retain the said things or animals until such compensation has been made.

第 792 條(鄰地使用權)

土地所有人因鄰地所有人在其地界或近旁，營造或修繕建築物或其他工作物有使用其土地之必要，應許鄰地所有人使用其土地。但因而受損害者，得請求償金。

Article 792

The landowner shall allow the owner of an adjacent land to use such part of his land necessary for the construction or repair of the building or other works on or near the abuttal. However he may claim compensation for any injury resulting therefrom.

第 793 條(氣響侵入之禁止)

土地所有人於他人之土地、建築物或其他工作物有瓦斯、蒸氣、臭氣、煙氣、熱氣、灰屑、喧囂、振動及其他與此相類者侵入時，得禁止之。但其侵入輕微，或按土地形狀、地方習慣，認為相當者，不在此限。

Article 793

The landowner is entitled to prohibit the discharge of gases, steam, odours, smoke, heat, soot, noises, vibrations and other similar nuisances from another person's land, building or other works, except such nuisance is insignificant or is justified by the shape of the land or by local custom.

第 794 條(損害鄰地地基或工作物危險之預防義務)

土地所有人開掘土地或為建築時，不得因此使鄰地之地基動搖或發生危險，或使鄰地之建築物或其他工作物受其損害。

Article 794

In excavating the land or in constructing buildings, the landowner shall not cause the foundations of the adjacent land to be shaken or endangered, nor can he cause any injury to the building or other works of the adjacent land.

第 795 條(工作物傾倒危險之預防)

建築物或其他工作物之全部，或一部有傾倒之危險，致鄰地有受損害之虞者，鄰地所有人，得請求為必要之預防。

Article 795

If there is danger of falling of the whole or a part of a building or other works on a piece of land, and this may prejudice to the adjacent land, the owner of the adjacent land is entitled to claim for necessary prevention.

第 796 條(越界建屋之異議)

土地所有人建築房屋非因故意或重大過失逾越地界者，鄰地所有人

Article 796

If a landowner constructs a building onto adjacent property with no intent or gross negligence, then the adjacent landowner shall

如其越界而不即提出異議，不得請求移去或變更其房屋。但土地所有人對於鄰地因此所受之損害，應支付償金。

前項情形，鄰地所有人得請求土地所有人，以相當之價額購買越界部分之土地及因此形成之畸零地，其價額由當事人協議定之；不能協議者，得請求法院以判決定之。

第 796-1 條(越界建屋之移去或變更)

土地所有人建築房屋逾越地界，鄰地所有人請求移去或變更時，法院得斟酌公共利益及當事人利益，免為全部或一部之移去或變更。但土地所有人故意逾越地界者，不適用之。

前條第一項但書及第二項規定，於前項情形準用之。

第 796-2 條(等值建物之準用範圍)

前二條規定，於具有與房屋價值相當之其他建築物準用之。

第 797 條(植物枝根越界之刈除)

土地所有人遇鄰地植物之枝根有逾越地界者，得向植物所有人，請求於相當期間內刈除之。

植物所有人不於前項期間內刈除者，土地所有人得刈取越界之枝根，並得請求償還因此所生之費用。

越界植物之枝根，如於土地之利用無妨害者，不適用前二項之規定。

第 798 條(鄰地之果實獲得權)

果實自落於鄰地者，視為屬於鄰地所有人。但鄰地為公用地者，不在此限。

第 799 條(建築物之區分所有)

稱區分所有建築物者，謂數人區分一建築物而各專有其一部，就專有部分有單獨所有權，並就該建築物及其附屬物之共同部分共有之建

not claim to remove or alter the building if the owner of the adjacent land is aware of the trespass and does not immediately object. The landowner shall compensate the adjacent property owner for any injury caused.

In the case of the preceding paragraph, the adjacent property owner may require the landowner to purchase the part of the trespassed land and the odd lot caused thereby at a reasonable price. If the parties cannot agree upon the purchase price, the price shall be determined by a court.

Article 796- 1

If the landowner construct a building beyond the abuttal, and the owner of the adjacent property claim to remove or alter such building, the court may take the public interest and the interest of both parties into account and order the release of all or part of the removal or alternation, unless the landowner intentionally construct a building beyond the abuttal.

Article 796- 2

The preceding two articles shall apply mutatis mutandis to other constructions that have a value equivalent to a building.

Article 797

If the branches or roots of plants of the adjacent land have spread beyond the abuttal, the landowner is entitled to require the owner of the plants to cut and rid the said branches or roots within a reasonable period.

If the owner of the plants does not cut and rid the said branches or roots within the period specified in the preceding paragraph, the landowner is entitled to cut and take the encroaching branches or roots, and is also entitled to claim the expenses caused thereby.

The provisions of the preceding two paragraphs shall not apply to such encroaching branches or roots that do not interfere with the utility of the land.

Article 798

Fruits that fall naturally on an adjacent land are deemed to belong to the owner of such land, except if it is a land for public use.

Article 799

A condominium building is a building that is partitioned by several persons. Each of these persons owns an individual unit of it and has individual ownership of the individual unit, and the common elements of the building and its accessories is held

築物。

前項專有部分，指區分所有建築物在構造上及使用上可獨立，且得單獨為所有權之標的者。共有部分，指區分所有建築物專有部分以外之其他部分及不屬於專有部分之附屬物。

專有部分得經其所有人之同意，依規約之約定供區分所有建築物之所有人共同使用；共有部分除法律另有規定外，得經規約之約定供區分所有建築物之特定所有人使用。區分所有人就區分所有建築物共有部分及基地之應有部分，依其專有部分面積與專有部分總面積之比例定之。但另有約定者，從其約定。

專有部分與其所屬之共有部分及其基地之權利，不得分離而為移轉或設定負擔。

第 799-1 條(建築物之費用分擔)

區分所有建築物共有部分之修繕費及其他負擔，由各所有人按其應有部分分擔之。但規約另有約定者，不在此限。

前項規定，於專有部分經依前條第三項之約定供區分所有建築物之所有人共同使用者，準用之。

規約之內容依區分所有建築物之專有部分、共有部分及其基地之位置、面積、使用目的、利用狀況、區分所有人已否支付對價及其他情事，按其情形顯失公平者，不同意之區分所有人得於規約成立後三個月內，請求法院撤銷之。

區分所有人間依規約所生之權利義務，繼受人應受拘束；其依其他約定所生之權利義務，特定繼受人對於約定之內容明知或可得而知者，亦同。

第 799-2 條(同一建築物之所有人區分)

同一建築物屬於同一人所有，經區分為數專有部分登記所有權者，準

tenancy in common by all the owners.

The individual unit which is a part of a condominium building, provided in the preceding paragraph, means the property that is independent both in construction and in use, is the object of individual ownership. The common elements means the property excluding the individual units of a condominium.

The individual unit, under the permission of its owner, may be jointly used by all the owners of the condominium by master lease. The common elements, unless the statutes provides otherwise, may be used by specific owners of the condominium by master lease.

The owner's share to the common elements of the building and the land on which the building is erected is decided by the ratio of his own individual unit to the total of the individual units, if it is otherwise provided by master deed, such deed shall be followed.

The individual unit and its dependent rights of the common elements of the building with the land on which the building is erected, shall not separately transfers or establishing encumbrances.

Article 799- 1

The expenses of repair and other charge to the common elements of a condominium building shall be born by all the owners in proportion to their respective shares, except there is another agreement.

The preceding paragraph shall apply mutatis mutandis to the individual unit which is agreed to be used by all owners of a condominium building in accordance with the provisions of the third paragraph of the preceding article.

After considering the location, coverage, its purpose of use, its use condition, whether or not the owner has paid the consideration, and other conditions of the individual unit, the common elements, and the land on which the building is erected, if the provision of the master deed is obviously unfair, the opposing owner of the condominium may file a claim with the court to revoke it within three months after the establishment of the master deed.

The rights and duties deriving from the master deed between the owners shall be binding upon owners' successors. The rights and duties deriving from other agreements shall apply, if the specific successor knows or has a reason to know the content of the agreements.

Article 799- 2

The provisions of Article 799 shall be mutatis mutandis applied where a person own a building and the building has been

用第七百九十九條規定。

recorded as a condominium.

第 800 條(他人正中宅門之使用)

第七百九十九條情形，其專有部分之所有人，有使用他專有部分所有人正中宅門之必要者，得使用之。但另有特約或另有習慣者，從其特約或習慣。
因前項使用，致他專有部分之所有人受損害者，應支付償金。

Article 800

In the case of Article 799, if it is necessary for an individual unit owner to use the middle gate which belongs to another individual unit owner, he is entitled to do so, unless it is otherwise provided by a particular agreement or custom which shall then govern.
Owing to the preceding use, compensation shall be made for any injury caused to another individual unit owner.

第 800-1 條(準用範圍)

第七百七十四條至前條規定，於地上權人、農育權人、不動產役權人、典權人、承租人、其他土地、建築物或其他工作物利用人準用之。

Article 800- 1

The provisions of Article 774 to the preceding article shall apply mutatis mutandis to the superficiary, the agricultural right holder, the owner of a dominant real property, dian-holder, lessee or other users of land, building and other works.

第三節動產所有權

Section 3 - Ownership of the Personal Property

第 801 條(善意受讓)

動產之受讓人占有動產，而受關於占有規定之保護者，縱讓與人無移轉所有權之權利，受讓人仍取得其所有權。

Article 801

When a transferee of a personal property is in possession of it and is protected by the provisions concerning possession, he acquires the ownership of the same even if the transferor has no right to transfer such ownership.

第 802 條(無主物之先占)

以所有之意思，占有無主之動產者，除法令另有規定外，取得其所有權。

Article 802

Whoever with the intent of being the owner of a personal property of no owner takes possession of the same, unless otherwise provided by the statutes, he acquires its ownership.

第 803 條(遺失物拾得者之招領報告義務)

拾得遺失物者應從速通知遺失人、所有人、其他有受領權之人或報告警察、自治機關。報告時，應將其物一併交存。但於機關、學校、團體或其他公共場所拾得者，亦得報告於各該場所之管理機關、團體或其負責人、管理人，並將其物交存。

Article 803

A person who picks up a lost property has a duty to notify the one who lost the property, its owner, other person who is entitled as a receiver, or report to the police or the local autonomous institution as soon as possible and deposit the property with them at the time of such report. However, if a person picks up lost property at an institution, school, organization or other public place, he can also report to the management authority, company, its conductor or manager of such place, and deposit the property with them at the time of such report.
Those who have been reported in the preceding paragraph shall announce, broadcast, or use other appropriate means to advertise the owner of his claim to the property at the place where the property has been found or other proper place as soon as possible.

前項受報告者，應從速於遺失物拾得地或其他適當處所，以公告、廣播或其他適當方法招領之。

第 804 條(招領後無人認領之處置 Article 804**- 交存遺失物)**

依前條第一項為通知或依第二項由公共場所之管理機關、團體或其負責人、管理人為招領後，有受領權之人未於相當期間認領時，拾得人或招領人應將拾得物交存於警察或自治機關。

警察或自治機關認原招領之處所或方法不適當時，得再為招領之。

If the person who is entitled to receive the lost property does not identify and claim the lost property within a reasonable time after the notice in accordance with the first paragraph of the preceding article, or after the advertisement of the management authority, company, its conductor or manager of such place in accordance with the second paragraph of the preceding article, then the person who picks up the lost property shall deposit the property with the police or the local autonomous institution.

If the police or the local autonomous institution has determined that the original place or method of advertising the owner of his claim to the lost property is improper, they may advertise again.

第 805 條(認領之期限、費用及報酬之請求) Article 805

遺失物自通知或最後招領之日起六個月內，有受領權之人認領時，拾得人、招領人、警察或自治機關，於通知、招領及保管之費用受償後，應將其物返還之。

有受領權之人認領遺失物時，拾得人得請求報酬。但不得超過其物財產上價值十分之三；其不具有財產上價值者，拾得人亦得請求相當之報酬。

前項報酬請求權，因六個月間不行使而消滅。

第一項費用之支出者或得請求報酬之拾得人，在其費用或報酬未受清償前，就該遺失物有留置權；其權利人有數人時，遺失物占有人視為全體權利人占有。

If the person who is entitled to receive the lost property identifies and claims it within six months from the date of the notification or the last day of advertisement, then the person who picks up the lost property, the person who advertise the owner of his claim to the property, the police or the local autonomous institution shall return the lost property after the person who is entitled to receive the property has reimbursed those who have incurred costs for notice, advertisement, or preserving the property.

When the person who is entitled to receive the lost property identifies and claims the lost property, the person who picks up the lost property is entitled to claim a reward not to exceed thirty percent of the value of the property. If the lost property does not have monetary value, the person who picks up is still entitled to claim a moderate reward.

The claim for reward as specified in the preceding paragraph will be extinguished by prescription, if it is not exercised within six months.

The person who incurs the expense set forth in the first paragraph or the person that is entitled to a reward has a lien over the lost property until such expense or reward has been paid. If several persons have reimbursement rights or the claim for reward, the possessor of the lost property is presumed to possess for them all.

第 805-1 條(認領報酬之例外) Article 805- 1

有下列情形之一者，不得請求前條第二項之報酬：

- 一、在公眾得出入之場所或供公眾往來之交通設備內，由其管理人或受僱人拾得遺失物。
- 二、拾得人違反通知、報告或交存義務或經查詢仍隱匿其拾得之事

No claim for reward provided in the second paragraph of the preceding article shall be made under any of the following situations:

- (1) The lost property is picked up in a public facility or in a public transportation facility by its manager or employee.
- (2) The person who picks up the lost property fails to perform the duty of notification, reporting and depositing, or conceal the

實。

fact of his pick-up of the lost property when being asked.

第 806 條(遺失物之拍賣及變賣)

拾得物易於腐壞或其保管需費過鉅者，招領人、警察或自治機關得為拍賣或逕以市價變賣之，保管其價金。

Article 806

If the lost property being picked up is easy to corrupt, or if the cost to preserve it is excessive, the person who advertises the owner of his claim to the property, the police or local autonomous institution may sell it by auction or sell it at market price and keep the net proceeds of the sale.

第 807 條(逾期未認領之遺失物之歸屬 - 拾得人取得所有權)

遺失物自通知或最後招領之日起逾六個月，未經有受領權之人認領者，由拾得人取得其所有權。警察或自治機關並應通知其領取遺失物或賣得之價金；其不能通知者，應公告之。

Article 807

If the person who is entitled to receive the lost property does not identify and claims it within six months from the date of the notification or the last day of advertisement, the person who picks up the lost property acquires its ownership. The police or the local autonomous institution shall inform the person who picks up the lost property to claim such property or the net proceeds of its sale. If he can not be informed, an advertisement shall be done instead.

拾得人於受前項通知或公告後三個月內未領取者，其物或賣得之價金歸屬於保管地之地方自治團體。

If the person who picks up the lost property does not claim such property within three months from the date of informing or advertisement in accordance with the preceding paragraph, the lost property or the net proceeds of its sale belongs to the local autonomous institution.

第 807-1 條(五百元以下遺失物之歸屬)

遺失物價值在新臺幣五百元以下者，拾得人應從速通知遺失人、所有人或其他有受領權之人。其有第八百零三條第一項但書之情形者，亦得依該條第一項但書及第二項規定辦理。

Article 807- 1

When the value of the lost property is below five hundred NT dollars, the person who picks it up shall inform the loser, the owner, or other person who is entitled to receive as soon as possible. If there is a case of the exception of the first paragraph of Article 803, it can be handled in accordance with the exception of first paragraph and the second paragraph of such article.

前項遺失物於下列期間未經有受領權之人認領者，由拾得人取得其所有權或變賣之價金：

If the lost property of the preceding paragraph has not been identified and claimed its ownership within the following period of time, the person who picks it up acquires its ownership or the net proceeds of its sale:

一、自通知或招領之日起逾十五日。

(1) Fifteen days after the date of informing or advertising the owner of his claim to the property.

二、不能依前項規定辦理，自拾得日起逾一個月。

(2) A month after the day of picking up, if it cannot be handled in accordance with the preceding paragraph.

第八百零五條至前條規定，於前二項情形準用之。

Article 805 to the preceding article shall apply mutatis mutandis to the case of the preceding two paragraphs.

第 808 條(埋藏物之發現)

發見埋藏物而占有者，取得其所有權。但埋藏物係在他人所有之動產或不動產中發見者，該動產或不動

Article 808

Whoever finds a treasure-trove and takes possession of it, he acquires its ownership. However, if the treasure-trove is found in a personal or real property owned by another, the finder and

產之所有人與發見人，各取得埋藏物之半。

the owner of such personal or real property shall equally acquire a half of the treasure-trove.

第 809 條(有學術價值埋藏物之歸屬)

發見之埋藏物足供學術、藝術、考古或歷史之資料者，其所有權之歸屬，依特別法之規定。

Article 809

When a treasure-trove that has been found is fit for the academic, artistic, archaeological or historical material, its ownership shall be determined in accordance with the provisions of the particular law relating thereto.

第 810 條(漂流物或沈沒物之拾得)

拾得漂流物、沈沒物或其他因自然力而脫離他人占有之物者，準用關於拾得遺失物之規定。

Article 810

The provisions concerning the picking up of the lost property shall apply mutatis mutandis to the picking up of the floating property, the sunken property or other property which separates from its possessor because of the natural force.

第 811 條(不動產上之附合)

動產因附合而為不動產之重要成分者，不動產所有人，取得動產所有權。

Article 811

When a personal property becomes an important component part of a real property through attaching, the owner of the real property acquires the ownership of such personal property.

第 812 條(動產之附合)

動產與他人之動產附合，非毀損不能分離，或分離需費過鉅者，各動產所有人，按其動產附合時之價值，共有合成物。

Article 812

When a personal property belonging to one person is attached to a personal property belonging to another person in such a way that they cannot be separated without damage or can only be separated through the incurring of excessive expenses, both owners shall jointly own the composition in proportion to the value of each personal property at the time they were attached. If one of the personal properties attached as specified in the preceding paragraph can be deemed to be the principal thing, the owner of such principal thing acquires the ownership of the composition.

前項附合之動產，有可視為主物者，該主物所有人，取得合成物之所有權。

第 813 條(混合)

動產與他人之動產混合，不能識別，或識別需費過鉅者，準用前條之規定。

Article 813

The provisions of the preceding article shall be mutatis mutandis applied when a personal property is mixed together with a personal property belonging to another person so as to be no longer distinguishable from each other or so as to be distinguished only through the incurring of excessive expenses.

第 814 條(加工)

加工於他人之動產者，其加工物之所有權，屬於材料所有人。但因加工所增之價值顯逾材料之價值者，其加工物之所有權屬於加工人。

Article 814

When a person has contributed work to a personal property belonging to another, the ownership of the personal property upon which the work is done belongs to the owner of the material thereof. However, if the value of the contributing work obviously exceeds the value of the material, the ownership of the personal property upon which the work is done belongs to the contributing person.

第 815 條(添附之效果 - 其他權利之同消滅)

依前四條之規定，動產之所有權消滅者，該動產上之其他權利，亦同消滅。

Article 815

When the ownership of a personal property is extinguished in accordance with the provisions of the preceding four articles, all other rights over such personal property are also extinguished.

第 816 條(添附之效果 - 補償請求)

因前五條之規定而受損害者，得依關於不當得利之規定，請求償還價額。

Article 816

The person, who has a loss through the provisions of the preceding five articles, is entitled to claim a reimbursement of the value in accordance with the provisions concerning unjust enrichment.

第四節 共有**Section 4 - Co-Ownership****第 817 條(分別共有 - 共有人及應有部分)**

數人按其應有部分，對於一物所有權者，為共有人。
各共有人之應有部分不明者，推定其為均等。

Article 817

When several persons have the ownership of a thing in proportion to their own respective shares, they are co-owners. If the shares to which each co-owner is entitled are not known, they are presumed to be equal.

第 818 條(共有人之使用收益權)

各共有人，除契約另有約定外，按其應有部分，對於共有物之全部，有使用收益之權。

Article 818

Each co-owner is, in proportion to his own share, unless otherwise provided by a covenant, entitled to use and to acquire the profits of the thing held in indivision.

第 819 條(應有部分及共有物之處分)

各共有人，得自由處分其應有部分。
共有物之處分、變更、及設定負擔，應得共有人全體之同意。

Article 819

Each co-owner may freely dispose of his own share.

The disposition of, the alteration of and the creation of an encumbrance over a thing held in indivision shall only be made with the consent of all the co-owners.

第 820 條(共有物之管理)

共有物之管理，除契約另有約定外，應以共有人過半數及其應有部分合計過半數之同意行之。但其應有部分合計逾三分之二者，其人數不予計算。

Article 820

Unless otherwise provided by a covenant, the management of the thing held in indivision, the consent of more than half of the Co-owners whose holding of ownership is more than half of the total share shall be required. But if the holding of ownership is more than two thirds, the numbers of consenting co-owners need not be taken into account.

依前項規定之管理顯失公平者，不同意之共有人得聲請法院以裁定變更之。

If the management in accordance with the preceding paragraph is obviously unfair, the disagreeing co-owner may apply to the court for the alternation.

前二項所定之管理，因情事變更難以繼續時，法院得因任何共有人之聲請，以裁定變更之。

When the management of the preceding two paragraphs cannot be maintained because of the change of circumstance, the court may rule an alternation on the application of any of the co-owners.

共有人依第一項規定為管理之決

The co-owners, with intent or gross negligence, pursuant to the

定，有故意或重大過失，致共有人受損害者，對不同意之共有人連帶負賠償責任。

共有物之簡易修繕及其他保存行為，得由各共有人單獨為之。

第 821 條(共有人對第三人之權利)

各共有人對於第三人，得就共有物之全部為本於所有權之請求。但回復共有物之請求，僅得為共有人全體之利益為之。

第 822 條(共有物費用之分擔)

共有物之管理費及其他負擔，除契約另有約定外，應由各共有人按其應有部分分擔之。

共有人中之一人，就共有物之負擔為支付，而逾其所應分擔之部分者，對於其他共有人得按其各應分擔之部分，請求償還。

第 823 條(共有物之分割與限制)

各共有人，除法令另有規定外，得隨時請求分割共有物。但因物之使用目的不能分割或契約訂有不分割之期限者，不在此限。

前項約定不分割之期限，不得逾五年；逾五年者，縮短為五年。但共有之不動產，其契約訂有管理之約定時，約定不分割之期限，不得逾三十年；逾三十年者，縮短為三十年。

前項情形，如有重大事由，共有人仍得隨時請求分割。

第 824 條(共有物分割之方法)

共有物之分割，依共有人協議之方法行之。

分割之方法不能協議決定，或於協議決定後因消滅時效完成經共有人拒絕履行者，法院得因任何共有人之請求，命為下列之分配：

first paragraph of this article, pass the resolution of the management which caused damages to other co-owners, shall be jointly and severally liable to the damages suffered by the opposing co-owners.

In regard to simple repairs and such other act for the preservation of the thing held in indivision, each of the co-owners is entitled to make it alone.

Article 821

Each co-owner may exercise the right of ownership against the third party for the whole thing held in indivision. However a claim for restoration of the said thing may only be made for the common interests of all the co-owners.

Article 822

Unless otherwise provided by a covenant, the costs of management and other charges relating to the thing held in indivision shall be born by all the co-owners in proportion to their respective shares.

When one of the co-owners has paid more than the share incumbent on him for the charges relating to such thing held in indivision, he is entitled to claim a reimbursement from the other co-owners in proportion to their respective shares.

Article 823

Unless otherwise provided by the statutes, each co-owner is entitled to demand at any time the partition of the thing held in indivision, except in consequence of the purpose of using such thing that makes partition impossible, or a covenant that provides a period of non-partition.

The period of non-partition of such covenant as specified in the preceding paragraph shall not exceed five years. Where a period exceeding five years has been agreed upon, it shall be reduced to five years. However, if the covenant of the real property held in indivision has an agreement on the management, the period of non-partition shall not exceed thirty years. Where a period exceeding thirty years has been agreed upon, it shall be reduced to thirty years.

In the case of the preceding paragraph, if there is significant cause, each co-owner is still entitled to demand at any time the partition of the thing held in indivision,

Article 824

The partition of the thing held in indivision can be made in accordance with the method agreed by all the co-owners.

If the method of partition cannot be agreed upon, or the co-owner refuses to fulfill the deed of partition because of the completion of the prescription after making an agreement, the court may, on the application of any of the co-owners, order

一、以原物分配於各共有人。但各共有均受原物之分配顯有困難者，得將原物分配於部分共有人。

二、原物分配顯有困難時，得變賣共有物，以價金分配於各共有人；或以原物之一部分分配於各共有人，他部分變賣，以價金分配於各共有人。

以原物為分配時，如共有人中有未受分配，或不能按其應有部分受分配者，得以金錢補償之。

以原物為分配時，因共有人之利益或其他必要情形，得就共有物之一部分仍維持共有。

共有人相同之數不動產，除法令另有規定外，共有人得請求合併分割。

共有人部分相同之相鄰數不動產，各該不動產均具應有部分之共有人，經各不動產應有部分過半數共有人之同意，得適用前項規定，請求合併分割。但法院認合併分割為不適當者，仍分別分割之。

變賣共有物時，除買受人為共有人外，共有人有依相同條件優先承買之權，有二人以上願優先承買者，以抽籤定之。

第 824-1 條(共有物分割之效力)

共有人自共有物分割之效力發生時起，取得分得部分之所有權。

應有部分有抵押權或質權者，其權利不因共有物之分割而受影響。但有下列情形之一者，其權利移存於抵押人或出質人所分得之部分：

- 一、權利人同意分割。
- 二、權利人已參加共有物分割訴訟。
- 三、權利人經共有人告知訴訟而未

such partition to be made according to either of the following:

(1) The distribution of the thing held in indivision itself to every co-owner. If it is difficult to distribute the thing held in indivision itself to every co-owner, the thing held in indivision itself can be distributed to some of the co-owners.

(2) The sale of the thing held in indivision and the distribution of the net proceeds to the co-owners, if there is an obvious difficulty in distributing the thing held in indivision itself. The distribution of some parts of the thing held in indivision to every co-owner, together with the sale of other parts of the thing held in indivision and its distribution of net proceeds to every co-owner.

In the case of the distribution of the thing held in indivision itself, if some of the co-owners can not receive a distribution or cannot receive a distribution in proportion to their own shares, they may be compensated in money.

In the case of the distribution of the thing held in indivision itself, the thing held in indivision can be partially maintained in indivision in consideration of the interests of the co-owners or other necessary circumstances.

If the same group of co-owners owns several real properties, unless otherwise provided by the statute, the co-owner is entitled to claim to merge and then partition.

If the co-owners of several adjacent real properties are partially the same, the co-owner who owns a share to each real property is entitled to claim to merge and then partition with the consent of other co-owners whose holding of ownership are more than half of the total share of each real property according to the preceding paragraph. However, if the court considers that to merge and then partition is improper, it may still be partitioned respectively.

In the case of the sale of the thing held in indivision, under the same terms and conditions, the co-owners have the right of first purchasing to buy the thing held in indivision, unless the buyer is another co-owner. If two co-owners are willing to exercise the right of first purchasing, the buyer shall be decided by drawing lots.

Article 824- 1

The co-owner acquires the ownership of the distinct part when the partition is effective.

When the thing held in indivision has been partitioned, a mortgage or the lien on the respective share is not thereby affected, except any of the following cases, such rights shift to the distinct part of the mortgagor or the lienee:

- (1) The right-holder agrees to partition.
- (2) The right-holder has participated in the litigation for the partition of the thing held in indivision.
- (3) The right-holder is notified of the partition litigation and

參加。

前項但書情形，於以價金分配或以金錢補償者，準用第八百八十一條第一項、第二項或第八百九十九條第一項規定。

前條第三項之情形，如為不動產分割者，應受補償之共有人，就其補償金額，對於補償義務人所分得之不動產，有抵押權。

前項抵押權應於辦理共有物分割登記時，一併登記，其次序優先於第二項但書之抵押權。

第 825 條(分得物之擔保責任)

各共有人，對於他共有人因分割而得之物，按其應有部分，負與出賣人同一之擔保責任。

第 826 條(所得物與共有物證書之保管)

共有物分割後，各分割人應保存其所得物之證書。

共有物分割後，關於共有物之證書，歸取得最大部分之人保存之，無取得最大部分者，由分割人協議定之，不能協議決定者，得聲請法院指定之。

各分割人，得請求使用他分割人所保存之證書。

第 826-1 條(共有物讓與之責任)

不動產共有人間關於共有物使用、管理、分割或禁止分割之約定或依第八百二十條第一項規定所為之決定，於登記後，對於應有部分之受讓人或取得物權之人，具有效力。其由法院裁定所定之管理，經登記後，亦同。

動產共有人間就共有物為前項之約定、決定或法院所為之裁定，對於應有部分之受讓人或取得物權之人，以受讓或取得時知悉其情事或可得而知者為限，亦具有效力。共有物應有部分讓與時，受讓人對讓與人就共有物因使用、管理或其

fails to join.

The provisions of the first and the second paragraph of Article 881, or the first paragraph of Article 899, shall apply mutatis mutandis to the exception of the preceding paragraph with the money distribution or the money compensation.

In the case of the third paragraph of the preceding article, if it is the partition of real property, the co-owner who shall be reimbursed has mortgage on the distinct part of the person who shall reimburse to such an extent as the amount of compensation.

The mortgage of the preceding paragraph shall be recorded at the same time the partition of the thing held in indivision is recorded. Such mortgage shall have priority over the mortgage of the exception of the second paragraph.

Article 825

Each co-owner in proportion to his share bears a liability or warranties the same as that of a seller in regard to the things which the other co-owners have acquired by partition.

Article 826

After the partition of a thing held in indivision, each participant shall preserve all documents relating to the thing which he has acquired.

After the partition of a thing held in indivision, all documents relating to the said thing shall be preserved by the person who has acquired the largest portion of the thing. If no person has acquired a larger portion, the partitioners shall determine the person who shall preserve the said documents by agreement, and if it cannot be determined by agreement, the person shall be nominated by the court on the application of the partitioners.

Each partitioner is entitled to claim the use of the documents preserved by the other partitioners.

Article 826-1

The covenant of the use, management, partition or partition inhibition or the decision made between the co-owners of the real property according to the first paragraph of Article 821, is bound to the share transferee or the person who acquires the right in rem after its recordation. The same rule shall apply to the management which a court has ruled that has been recorded.

The agreement and decision upon the thing held in indivision or the order made by the court between co-owners of personal property shall also bind the share transferee and the person who acquires the right in rem, but only when such person knows or should have known of such case while transferring or acquiring. When the share of the thing held in indivision is transferred, the transferee is jointly and severally liable for the charges arising

他情形所生之負擔連帶負責償責任。

from the use, management, or other matters related to the thing held in indivision.

第 827 條(共同共有人及其權利)

依法律規定、習慣或法律行為，成一共同關係之數人，基於其共同關係，而共有一物者，為共同共有人。

前項依法律行為成立之共同關係，以有法律規定或習慣者為限。

各共同共有人之權利，及於共同共有物之全部。

Article 827

Where several persons who constitute a relationship in common according to the provisions of statutes, customs or juridical acts hold a thing in common by virtue of the relationship in common, such persons are owners-in-common.

The relationship in common through juridical acts of the preceding paragraph shall only be constituted if there are statutes or customs.

The rights of each owner-in-common extend to the whole thing held in common.

第 828 條(共同共有人之權利義務與共同共有物之處分)

共同共有人之權利義務，依其共同關係所由成立之法律、法律行為或習慣定之。

第八百二十條、第八百二十一條及第八百二十六條之一規定，於共同共有準用之。

共同共有物之處分及其他之權利行使，除法律另有規定外，應得共同共有人全體之同意。

Article 828

The rights and duties of the owners-in-common are determined according to the statute, juridical act or custom from which the relationship in common is derived.

The provisions of Article 20, Article 21 and Article 26-1 shall apply mutatis mutandis to the ownership-in-common.

Unless otherwise provided by statutes, the disposition of the thing held in common and the exercise of other rights relating to the same shall be made with the consent of all the owners-in-common.

第 829 條(共同共有物分割之限制)

共同關係存續中，各共同共有人，不得請求分割其共同共有物。

Article 829

For the duration of the relationship in common, neither of the owners-in-common shall demand the partition of the thing held in common.

第 830 條(共同共有係之消滅與共同共有物之分割方法)

共同共有之關係，自共同關係終止，或因共同共有物之讓與而消滅。

共同共有物之分割，除法律另有規定外，準用關於共有物分割之規定。

Article 830

The ownership-in-common is extinguished with the termination of the relationship in common or by the transfer of the thing held in common.

Unless otherwise provided by statutes, the provisions governing the methods relating to the partition of the thing held in indivision shall apply mutatis mutandis to the partition of the thing held in common.

第 831 條(準共有)

本節規定，於所有權以外之財產權，由數人共有或共同共有者準用之。

Article 831

The provisions of this section shall be mutatis mutandis applied when rights over property other than ownership are held in indivision or in common by several persons.

第三章 地上權

Chapter 3 Superficies

第一節 普通地上權**Section 1- General Superficies****第 832 條(普通地上權之定義)**

稱普通地上權者，謂以在他人土地之上下有建築物或其他工作物為目的而使用其土地之權。

Article 832

A general superficies is the right to use the land of another person with the purpose of constructing a building or other works thereon or thereunder.

第 833 條

(刪除)

Article 833

(Repealed)

第 833-1 條(地上權之存續期間與終止)

地上權未定有期限者，存續期間逾二十年或地上權成立之目的已不存在時，法院得因當事人之請求，斟酌地上權成立之目的、建築物或工作物之種類、性質及利用狀況等情形，定其存續期間或終止其地上權。

Article 833- 1

If the superficies without a definite duration has existed for more than twenty years, or the purpose of establishing the superficies has no longer existed, the court may, upon the request claim by the parties, fix the duration or terminate the superficies after considering the purpose of establishing the superficies as well as the type, nature, and using conditions of the building or works.

第 833-2 條(公共建設之地上權存續期限)

以公共建設為目的而成立之地上權，未定有期限者，以該建設使用目的完畢時，視為地上權之存續期限。

Article 833- 2

If a superficies without a definite duration is established for the purpose of public constructions, the duration of the superficies shall terminate upon the completion of the public construction.

第 834 條(地上權人之拋棄權利)

地上權無支付地租之約定者，地上權人得隨時拋棄其權利。

Article 834

If a superficies is of no rental, the superfiiciary may waive his/her right at any time.

第 835 條(地上權拋棄時應盡之義務及保障)

地上權定有期限，而有支付地租之約定者，地上權人得支付未到期之三年分地租後，拋棄其權利。

地上權未定有期限，而有支付地租之約定者，地上權人拋棄權利時，應於一年前通知土地所有人，或支付未到期之一年分地租。

因不可歸責於地上權人之事由，致土地不能達原來使用之目的時，地上權人於支付前二項地租二分之一後，得拋棄其權利；其因可歸責於土地所有人之事由，致土地不能達原來使用之目的時，地上權人亦得拋棄其權利，並免支付地租。

Article 835

If the superficies has a fixed duration and an agreed-upon rental, the superfiiciary may waive his/her rights after having paid the rental for the next three years.

If the superficies has an indefinite duration and an agreed-upon rental, and the superfiiciary may waive his/her rights, by either notifying the landowner one year before the waiver, or paying one-year rental.

If the land cannot satisfy the original purpose of use for reasons not imputable to the superfiiciary, the superfiiciary may waive his/her rights after paying half of the rental as specified in the preceding two paragraphs. If the land cannot satisfy the original purpose of use for reason imputable to the landowner, the superfiiciary may waive his/her rights and therefore be exempted from paying the rental.

第 835-1 條(地租給付之公平原則)

地上權設定後，因土地價值之昇降，依原定地租給付顯失公平者，當事人得請求法院增減之。

未定有地租之地上權，如因土地之負擔增加，非當時所得預料，仍無償使用顯失公平者，土地所有人得請求法院酌定其地租。

第 836 條(終止地上權之使用)

地上權人積欠地租達二年之總額，除另有習慣外，土地所有人得定相當期限催告地上權人支付地租，如地上權人於期限內不為支付，土地所有人得終止地上權。地上權經設定抵押權者，並應同時將該催告之事實通知抵押權人。

地租之約定經登記者，地上權讓與時，前地上權人積欠之地租應併同計算。受讓人就前地上權人積欠之地租，應與讓與人連帶負清償責任。第一項終止，應向地上權人以意思表示為之。

第 836-1 條(土地所有權之讓與)

土地所有權讓與時，已預付之地租，非經登記，不得對抗第三人。

第 836-2 條(土地之用益權)

地上權人應依設定之目的及約定之使用方法，為土地之使用收益；未約定使用方法者，應依土地之性質為之，並均應保持其得永續利用。

前項約定之使用方法，非經登記，不得對抗第三人。

第 836-3 條(土地用益權之終止)

地上權人違反前條第一項規定，經土地所有人阻止而仍繼續為之者，土地所有人得終止地上權。地上權經設定抵押權者，並應同時將

Article 835- 1

If the rise or fall in land value after the creation of a superficies makes the original rental arising therefrom obviously unfair, the party may file a claim with the court to increase or reduce the rental.

If the superficies has no rental and the burden unexpectedly increased after the creation of the superficies make it obviously unfair to use the land for free, the landowner may file a claim with the court to fix the rental.

Article 836

Where the superficiary has delayed the payment of the rental which has accumulated to the amount equivalent to the total rental for two years, the landowner is entitled to fix a reasonable time and notified the superficiary to pay the rental, if the superficiary does not pay within the fixed period, the landowner is entitled to terminate the superficies, unless otherwise provided by the custom. If a mortgage is created on the superficies, the mortgagee shall also be informed about such notice.

If the agreement of rental has been registered, when the superficies is transferred, the rental owed by the former superficiary shall also be taken into consideration. The transferee is jointly and severally liable with the transferor for the rental owed by the former superficiary.

The termination as specified in the first paragraph shall be made by an expression of intent to the superficiary.

Article 836- 1

When the ownership of the land is transferred, the rental paid in advance shall not be effective against a third party unless it has been registered.

Article 836- 2

The superficiary shall use the land and acquire profits therefrom according to the purpose of creating such superficies and the agreed method of use. If the method of use has not been agreed upon, the nature of the land shall be followed. However, the sustainable use for the land shall be maintained in following either one.

The agreed method of use as specified in the preceding paragraph shall not be effective against a third party unless it has been registered.

Article 836- 3

When the superficiary violates the provision of the first paragraph of the preceding article, the landowner is entitled to terminate the superficies if the superficiary ignores his inhibition. If a mortgage is created on the superficies, the

該阻止之事實通知抵押權人。

mortgagee shall also be informed about such inhibition.

第 837 條(租金減免請求之限制)

地上權人，縱因不可抗力，妨礙其土地之使用，不得請求免除或減少租金。

Article 837

The superficiary is not entitled to claim for a release or reduction of the rental even if he is hindered by force majeure from using the land.

第 838 條(權利之讓與)

地上權人得將其權利讓與他人或設定抵押權。但契約另有約定或另有習慣者，不在此限。

前項約定，非經登記，不得對抗第三人。

地上權與其建築物或其他工作物，不得分離而為讓與或設定其他權利。

Article 838

The superficiary is entitled to transfer his/her rights to another person or create a mortgage, unless otherwise provided by the agreement of contract or the custom.

The agreement as specified in the preceding paragraph shall not be effective against a third person unless it has been registered.

A building or other works and the superficies thereon cannot be separately transferred or created other rights.

第 838-1 條(強制執行拍賣之協定)

土地及其土地上之建築物，同屬於一人所有，因強制執行之拍賣，其土地與建築物之拍定人各異時，視為已有地上權之設定，其地租、期間及範圍由當事人協議定之；不能協議者，得請求法院以判決定之。其僅以土地或建築物為拍賣時，亦同。

前項地上權，因建築物之滅失而消滅。

Article 838-1

Where the land and a building on such land are owned by the same person, a superficies is deemed to have been created and to exist at the time when the land and the building are thereafter sold by auction of compulsory execution to different bidder, and the rental, term, and scope of the superficies shall be determined by agreement between the parties. If such an agreement cannot be reached, the parties can apply to a court for a judgment determining these. The same rule shall apply when either the land or the building is auctioned.

The superficies as specified in the preceding paragraph is distinguished by the destruction of the building.

第 839 條(工作物之取回權及期限)

地上權消滅時，地上權人得取回其工作物。但應回復土地原狀。

地上權人不於地上權消滅後一個月內取回其工作物者，工作物歸屬於土地所有人。其有礙於土地之利用者，土地所有人得請求回復原狀。

地上權人取回其工作物前，應通知土地所有人。土地所有人願以時價購買者，地上權人非有正當理由，不得拒絕。

Article 839

When the superficies is extinguished, the superficiary is entitled to take his works back provided that the status quo ante of the land shall be restored.

If the superficiary does not take his works back within a month after the superficies is extinguished, those works belong to the landowner, and if it obstructs the use of the land, the landowner is entitled to have the status quo ante restored.

The superficiary shall inform the landowner before he takes his works back. If the landowner would like to purchase them at current market price, the superficiary can not refuse to sell without a good cause.

第 840 條(建築物之補償及期限)

地上權人之工作物為建築物者，如地上權因存續期間屆滿而消滅，地上權人得於期間屆滿前，定一個月以上之期間，請求土地所有人按該建築物之時價為補償。但契約另有

Article 840

Where the work of the superficiary is a building and the superficies is extinguished due to expiration, the superficiary is entitled to fix a period more than a month before the expiration, and request the landowner to compensate him according to the current market price of such building. However if it is otherwise

約定者，從其約定。

土地所有人拒絕地上權人前項補償之請求或於期間內不為確答者，地上權之期間應酌量延長之。地上權人不願延長者，不得請求前項之補償。

第一項之時價不能協議者，地上權人或土地所有人得聲請法院裁定之。土地所有人不願依裁定之時價補償者，適用前項規定。

依第二項規定延長期間者，其期間由土地所有人與地上權人協議定之；不能協議者，得請求法院斟酌建築物與土地使用之利益，以判決定之。

前項期間屆滿後，除經土地所有人與地上權人協議者外，不適用第一項及第二項規定。

provided by the agreement of contract, such agreement shall be followed.

The landowner refuses the request for compensation as specified in the preceding paragraph or does not respond within the period fixed, the duration of superficies shall consider to be extended. If the superfiiciary refuses to extend, he is not entitled to request for compensation as specified in the preceding paragraph.

If the current market price as specified in the first paragraph cannot be agreed upon, the superfiiciary or the landowner may apply to a court to determine it. The provision of the preceding paragraph shall be applied if the landowner refuses to compensate according to the current market price decided.

Extending the duration according to the second paragraph, the duration shall be determined by agreement between the landowner and superfiiciary. If such an agreement cannot be reached, they can apply to a court for a judgment to determine it by taking the interest of using the building and the land into consideration.

The provisions of the first and the second paragraph shall not apply after the expiration as specified in the preceding paragraph, except there is an agreement between the land owner and the superfiiciary.

第 841 條(地上權之永續性)

地上權不因建築物或其他工作物之滅失而消滅。

Article 841

A superficies is not extinguished by virtue of the loss or destruction of the building or other works.

第二節區分地上權

Section 2 - Divided Superficies

第 841-1 條(區分地上權之定義)

稱區分地上權者，謂以在他人土地上下之一定空間範圍內設定之地上權。

Article 841-1

A Divided Superficies is a superficies created within a certain scope of space on or under other's land.

第 841-2 條(使用收益之權益限制)

區分地上權人得與其設定之土地上下有使用、收益權利之人，約定相互間使用收益之限制。其約定未經土地所有人同意者，於使用收益權消滅時，土地所有人不受該約定之拘束。

前項約定，非經登記，不得對抗第三人。

Article 841-2

A divided superfiiciary may enter into an agreement regarding the limits on uses and profits with the person who has the rights to use and profit upon or under the land where a divided superficies is created. If the agreement is not consented to by the landowner, the landowner shall not be bound by it after rights to use and profit the land have extinguished.

The agreement provided in the preceding paragraph shall not be effective against a third party unless it has been registered.

第 841-3 條(區分地上權期間之第三人權益)

法院依第八百四十條第四項定區分地上權之期間，足以影響第三人

Article 841-3

The court shall consider a third party's interests in determining the duration of the Divided Superficies according to the fourth

之權利者，應併斟酌該第三人之利益。

paragraph of Article 840 if the third party's rights will be affected.

第 841-4 條(第三人之權益補償)

區分地上權依第八百四十條規定，以時價補償或延長期間，足以影響第三人之權利時，應對該第三人為相當之補償。補償之數額以協議定之；不能協議時，得聲請法院裁定之。

Article 841- 4

Where a divided superficies has been compensated at current market price or extended the duration according to Article 840, and the rights of a third party could have been affected, the third party should be reasonably compensated. The sum of compensation shall be determined by an agreement, if such agreement cannot be reached, the parties can apply to a court to determine it.

第 841-5 條(權利行使之設定)

同一土地有區分地上權與以使用收益為目的之物權同時存在者，其後設定物權之權利行使，不得妨害先設定之物權。

Article 841- 5

Where a divided superficies and the right in rem for the purpose of use both exist on the same land at the same time, the exercise of the later created right in rem cannot interfere with the right in rem created ahead.

第 841-6 條(準用地上權之規定)

區分地上權，除本節另有規定外，準用關於普通地上權之規定。

Article 841- 6

Unless otherwise provided in this section, the provisions of general superficies shall be mutatis mutandis applied to divided superficies.

第四章(刪除)

Chapter 4 (Repealed)

第 842 條

(刪除)

Article 842

(Repealed)

第 843 條

(刪除)

Article 843

(Repealed)

第 844 條

(刪除)

Article 844

(Repealed)

第 845 條

(刪除)

Article 845

(Repealed)

第 846 條

(刪除)

Article 846

(Repealed)

第 847 條

(刪除)

Article 847

(Repealed)

第 848 條

(刪除)

Article 848

(Repealed)

第 849 條

(刪除)

Article 849

(Repealed)

第 850 條

(刪除)

Article 850

(Repealed)

第四章之一 農育權

Chapter 4-1 Agricultural Right

第 850-1 條(農育權之定義)

Article 850- 1

稱農育權者，謂在他人土地為農作、森林、養殖、畜牧、種植竹木或保育之權。

農育權之期限，不得逾二十年；逾二十年者，縮短為二十年。但以造林、保育為目的或法令另有規定者，不在此限。

第 850-2 條(農育權之終止)

農育權未定有期限時，除以造林、保育為目的者外，當事人得隨時終止之。

前項終止，應於六個月前通知他方當事人。

第八百三十三條之一規定，於農育權以造林、保育為目的而未定有期限者準用之。

第 850-3 條(農育權之讓與)

農育權人得將其權利讓與他人或設定抵押權。但契約另有約定或另有習慣者，不在此限。

前項約定，非經登記不得對抗第三人。

農育權與其農育工作物不得分離而為讓與或設定其他權利。

第 850-4 條(地租減免或變更土地使用目的)

農育權有支付地租之約定者，農育權人因不可抗力致收益減少或全無時，得請求減免其地租或變更原約定土地使用之目的。

前項情形，農育權人不能依原約定目的使用者，當事人得終止之。

前項關於土地所有人得行使終止權之規定，於農育權無支付地租之約定者，準用之。

第 850-5 條(土地或工作物之出租限制)

農育權人不得將土地或農育工作物出租於他人。但農育工作物之出租另有習慣者，從其習慣。

An agricultural right is the right to cultivate, to forest, to farm, to plant bamboos and trees or to conserve on the land of another person.

The duration of the agricultural right shall not exceed twenty years; where a period exceeding twenty years has been agreed upon, it shall be reduced to twenty years, except the agricultural right is created for the purpose of afforestation or conservation, or there is another statute.

Article 850- 2

If the duration of the agricultural right is not fixed, the parties are at any time entitled to terminate unless the agricultural right is created for the purpose of afforestation or conservation.

The termination as specified in the preceding paragraph shall be informed to the other party six months before the termination.

The provision of Article 833-1 shall apply mutatis mutandis to the agricultural right which is created for the purpose of afforestation and conservation and of which the duration is not fixed.

Article 850- 3

An agricultural right holder may transfer his right to another person or create a mortgage on it, unless otherwise provided by a contract or custom.

The agreement as specified in the preceding paragraph shall not be effective against a third party unless it has been registered.

Agricultural works and the agricultural right thereon shall not be separately transferred or created other rights.

Article 850- 4

If an agricultural right has an agreed-upon rental, the agricultural right holder may request to reduce or relieve of the rental, or to change the originally agreed-upon purpose of land use, if he has reduced or no profits due to force majeure.

In the case of the preceding paragraph, the party is entitled to terminate the right if the agricultural right holder can not use the land for the original purpose agreed upon.

The provision regarding the landowner's the right of termination as specified in the preceding paragraph shall apply mutatis mutandis to the agricultural right without agreed-upon rental.

Article 850- 5

An agricultural right holder is not entitled to lease out the land or other agricultural works to another person. However if the lease upon agricultural works is otherwise provided by custom, such custom shall be followed.

農育權人違反前項規定者，土地所有人得終止農育權。

If the agricultural right holder violates the provision of the preceding paragraph, the landowner is entitled to terminate the agricultural right.

第 850-6 條(土地用益權)

農育權人應依設定之目的及約定之方法，為土地之使用收益；未約定使用方法者，應依土地之性質為之，並均應保持其生產力或得永續利用。

Article 850- 6

The agricultural right holder shall use the land and acquire the profit therefrom according to the purpose of creating such right and the agreed method, if the method of use has not been agreed upon; the nature of the land shall be followed. However, the productivity or sustainable use for the land shall be maintained in following either one.

農育權人違反前項規定，經土地所有人阻止而仍繼續為之者，土地所有人得終止農育權。農育權經設定抵押權者，並應同時將該阻止之事實通知抵押權人。

If the agricultural right holder violates the provision of the preceding paragraph, the landowner is entitled to terminate the agricultural right if the agricultural right holder ignores his inhibition. If a mortgage is created on agricultural right, the mortgagee shall also be informed about such inhibition.

第 850-7 條(出產物及工作物之取回權)

農育權消滅時，農育權人得取回其土地上之出產物及農育工作物。

Article 850- 7

When an agricultural right is extinguished, the agricultural right holder is entitled to retrieve his products on the land and the agricultural works.

第八百三十九條規定，於前項情形準用之。

The provision of Article 839 is applied mutatis mutandis to the circumstance as specified in the preceding paragraph.

第一項之出產物未及收穫而土地所有人又不願以時價購買者，農育權人得請求延長農育權期間至出產物可收穫時為止，土地所有人不得拒絕。但延長之期限，不得逾六個月。

Where the products as specified in the first paragraph are not yet able to be harvested, and the landowner does not want to purchase at current market price, the agricultural right holder is entitled to claim for extending the duration of agricultural right until the products are able to be harvested, and the landowner is not entitled to refuse. However the duration extended cannot exceed six months.

第 850-8 條(土地特別改良權)

農育權人得為增加土地生產力或使用便利之特別改良。

Article 850- 8

The agricultural right holder is entitled to make special improvement for raising the production of the land or the convenience of using the land.

農育權人將前項特別改良事項及費用數額，以書面通知土地所有人，土地所有人於收受通知後不即為反對之表示者，農育權人於農育權消滅時，得請求土地所有人返還特別改良費用。但以其現存之增價額為限。

Where the agricultural right holder notifies the entries of special improvement and the sum of expense as specified in the preceding paragraph to the landowner in writing, and the landowner fails to express a contrary intent immediately after he received the notification, the agricultural right holder is entitled to demand the landowner to return the expense for the special improvement, in so far as the increased value presently existed thereby, when the agricultural right is extinguished.

前項請求權，因二年間不行使而消滅。

The claim as specified in the preceding paragraph is extinguished by prescription if it is not exercised within two years.

第 850-9 條(農育權之準用)

Article 850- 9

第八百三十四條、第八百三十五條第一項、第二項、第八百三十五條之一至第八百三十六條之一、第八百三十六條之二第二項規定，於農育權準用之。

The provisions of Article 834, the first and the second paragraphs of Article 835, Article 835-1 to Article 836-1, the second paragraph of Article 836-2 shall apply mutatis mutandis to the agricultural right.

第五章 不動產役權

Chapter 5 Servitude of real property

第 851 條(不動產役權之定義)

稱不動產役權者，謂以他人不動產供自己不動產通行、汲水、採光、眺望、電信或其他以特定便宜之用為目的之權。

Article 851

A servitude of real property is the right to use the property of another person for accessing, drawing water, lightening, surveying, telecommunication or other specific convenience of one's own property.

第 851-1 條(權利行使之設定)

同一不動產上有不動產役權與以使用收益為目的之物權同時存在者，其後設定物權之權利行使，不得妨害先設定之物權。

Article 851- 1

Where a servitude of real property and a right in rem for the purpose of benefiting from its use both exist on a real property at the same time, the exercise of the later created right in rem cannot interfere with the right in rem created ahead.

第 852 條(取得時效)

不動產役權因時效而取得者，以繼續並表見者為限。

前項情形，需役不動產為共有者，共有人中一人之行為，或對於共有人中一人之行為，為他共有人之利益，亦生效力。

向行使不動產役權取得時效之各共有人為中斷時效之行為者，對全體共有人發生效力。

Article 852

A servitude of real property cannot be acquired by prescription except those which are continuous and apparent.

In the case of the preceding paragraph, if the dominant real property is held in division, the act of one of the co-owners or the act against one of the co-owners shall be effective for the interests of other co-owners.

The act, which interrupts the prescription, against those co-owners, who will acquire servitude of real property by prescription, will be effective to all of the co-owners.

第 853 條(不動產役權之從屬性)

不動產役權不得由需役不動產分離而為讓與，或為其他權利之標的物。

Article 853

A servitude of real property can not be separately transferred from the dominant real property or created other right.

第 854 條(不動產役權人必要之附隨行為權)

不動產役權人因行使或維持其權利，得為必要之附隨行為。但應擇於供役不動產損害最少之處所及方法為之。

Article 854

The owner of the dominant real property is entitled to perform such attached acts as are necessary for exercising or preserving his/her rights, provided that he shall choose the place and the method which will cause the least injury to the servient real property.

第 855 條(設置之維持及使用)

不動產役權人因行使權利而為設置者，有維持其設置之義務；其設置由供役不動產所有人提供者，亦同。

Article 855

The owner of a dominant real property, who makes constructions for the purpose of exercising his/her rights, is bound to maintain such constructions. The same rule is applied when the construction is provided by the owner of the servient

供役不動產所有人於無礙不動產役權行使之範圍內，得使用前項之設置，並應按其受益之程度，分擔維持其設置之費用。

real property.

The owner of the servient land may use the constructions as specified in the preceding paragraph to the extent the exercise of the servitude of real property has not been obstructed, and shall bear his share of the expenses for the maintenance of the constructions in proportion to the interests he is benefited therefrom.

第 855-1 條(不動產役權處所或方法之變更)

供役不動產所有人或不動產役權人因行使不動產役權之處所或方法有變更之必要，而不甚妨礙不動產役權人或供役不動產所有人權利之行使者，得以自己之費用，請求變更之。

Article 855- 1

The owner of a servient real property or the owner of a dominant real property may, for the necessity to change the place or method of exercising servitude of real property which does not heavily hinder the owner of the dominant real property or the owner of the servient real property to exercise his rights, claim to change by paying on his own.

第 856 條(不動產役權之不可分性(一) - 需役不動產之分割)

需役不動產經分割者，其不動產役權為各部分之利益仍為存續。但不動產役權之行使，依其性質祇關於需役不動產之一部分者，僅就該部分仍為存續。

Article 856

Where a dominant real property is partitioned, its servitude of real property still continues for the interests of all its parts. However if according to its nature the exercise of the servitude of real property actually refers to only one part of the dominant real property, such servitude still continues only in respect to such part.

第 857 條(不動產役權之不可分性(二) - 供役不動產之分割)

供役不動產經分割者，不動產役權就其各部分仍為存續。但不動產役權之行使，依其性質祇關於供役不動產之一部分者，僅對於該部分仍為存續。

Article 857

Where a servient real property is partitioned, the servitude of real property still continues on all its parts. However, if according to its nature the exercise of the servitude of real property actually refers to only one part of the servient real property, such servitude still continues only as against such part.

第 858 條 (刪除)

Article 858 (Repealed)

第 859 條(不動產役權之宣告消滅)

不動產役權之全部或一部無存續之必要時，法院因供役不動產所有人之請求，得就其無存續必要之部分，宣告不動產役權消滅。

Article 859

Where the continuance of all or part of the servitude of real property is no longer necessary, the court may, on the application of the owner of the servient real property, declare such servitude of real property extinguished upon the part of which the continuance is no longer necessary.

不動產役權因需役不動產滅失或不堪使用而消滅。

A servitude of real property is extinguished by virtue of destruction or failure in use of the dominant real property.

第 859-1 條(不動產役權消滅之取回權及期限)

不動產役權消滅時，不動產役權人

Article 859- 1

When a servitude of real property is extinguished, the provision

所為之設置，準用第八百三十九條規定。

of Article 839 shall apply mutatis mutandis to the construction made by the owner of a dominant real property.

第 859-2 條(準用不動產役權之規定)

Article 859- 2

第八百三十四條至第八百三十六條之三規定，於不動產役權準用之。

The provisions of Article 834 to Article 836-3 shall apply mutatis mutandis to a servitude of real property.

第 859-3 條(不動產役權之設定)

Article 859- 3

基於以使用收益為目的之物權或租賃關係而使用需役不動產者，亦得為該不動產設定不動產役權。前項不動產役權，因以使用收益為目的之物權或租賃關係之消滅而消滅。

When using the dominant real property is based on a right in rem for the purpose of benefiting from its use or a lease, a servitude of real property may be created for the said real property. The servitude of real property as specified in the preceding paragraph is extinguished when the right in rem for the purpose of benefiting from its use or the lease is extinguished.

第 859-4 條(就自己不動產之設定)

Article 859- 4

不動產役權，亦得就自己之不動產設定之。

A servitude of real property may be created on one's own real property.

第 859-5 條(準用不動產役權之規定)

Article 859- 5

第八百五十一條至第八百五十九條之二規定，於前二條準用之。

The provisions of Article 851 to 859-2 shall apply mutatis mutandis to the preceding two paragraphs.

第六章 抵押權

Chapter 6 Mortgage

第一節 普通抵押權

Section 1 - General Mortgages

第 860 條(抵押權之定義)

Article 860

稱普通抵押權者，謂債權人對於債務人或第三人不移轉占有而供其債權擔保之不動產，得就該不動產賣得價金優先受償之權。

A general mortgage is a preferential right of a creditor to receive satisfaction of a claim from the proceeds from sale of real property that a debtor or a third party has provided, without transferring possession, as security for the claim.

第 861 條

Article 861

(抵押權之擔保範圍)

抵押權所擔保者為原債權、利息、遲延利息、違約金及實行抵押權之費用。但契約另有約定者，不在此限。

Unless otherwise provided by a covenant, a mortgage secures the principal claim, interest, default interest, default penalties, and the cost of enforcing the mortgage.

得優先受償之利息、遲延利息、一年或不及一年定期給付之違約金債權，以於抵押權人實行抵押權聲請強制執行前五年內發生及於強制執行程序中發生者為限。

The preferential right to satisfaction of a claim over interest, default interest, and such default penalties as are paid at regular periods of one year or less shall be limited to interest and penalties incurred during the five years preceding a mortgagee's enforcement of the mortgage or application for compulsory execution, and interest and penalties incurred during the process

of compulsory execution.

第 862 條(抵押權效力及於標的物之範圍(一) - 從物及從權利)

抵押權之效力，及於抵押物之從物與從權利。

第三人於抵押權設定前，就從物取得之權利，不受前項規定之影響。

以建築物為抵押者，其附加於該建築物而不具獨立性之部分，亦為抵押權效力所及。但其附加部分為獨立之物，如係於抵押權設定後附加者，準用第八百七十七條之規定。

第 862-1 條

抵押物滅失之殘餘物，仍為抵押權效力所及。抵押物之成分非依物之通常用法而分離成為獨立之動產者，亦同。

前項情形，抵押權人得請求占有該殘餘物或動產，並依質權之規定，行使其權利。

第 863 條(抵押權效力及於標的物之範圍(二) - 天然孳息)

抵押權之效力，及於抵押物扣押後自抵押物分離，而得由抵押人收取之天然孳息。

第 864 條(抵押權效力及於標的物之範圍(三) - 法定孳息)

抵押權之效力，及於抵押物扣押後抵押人就抵押物得收取之法定孳息。但抵押權人，非以扣押抵押物之事情，通知應清償法定孳息之義務人，不得與之對抗。

第 865 條(抵押權之順位)

不動產所有人，因擔保數債權，就同一不動產，設定數抵押權者，其次序依登記之先後定之。

第 866 條(地上權或其他物權之設定)

Article 862

The effect of a mortgage extends to the accessories and accessory rights of the property mortgaged.

Rights acquired by a third party over such accessories before the creation of a mortgage are not affected by the provisions of the preceding paragraph.

When a building is the subject of a mortgage, any part added to the building and not independent of it is also subject to the effect of the mortgage. The provisions of Article 877 apply mutatis mutandis, however, when a part added to the building is an independent thing added after creation of the mortgage.

Article 862-1

The remnants of a mortgaged property after its destruction remain subject to the effect of the mortgage. The same shall be true of any component of the mortgaged property that is separated from it into independent personal property otherwise than in accordance with the ordinary use of the thing.

Under the circumstances described in the preceding paragraph, a mortgagee may claim possession of such remnants or personal property and exercise his or her rights in accordance with the provisions governing pledges.

Article 863

The effect of a mortgage extends to natural profits that are separated from the mortgaged property after the attachment of such property and that the mortgage holder is entitled to collect.

Article 864

The effect of a mortgage extends to civil profits that the mortgagor is entitled to collect on the mortgaged property after the attachment of such property. The mortgagee, however, may not claim against the obligor who shall pay such civil profits until he has notified such obligor of the fact of attachment of the mortgaged property.

Article 865

If the owner of a real property creates multiple mortgages on the same property for the purpose of securing multiple claims, the ranks of these mortgages are determined according to the order of their registration.

Article 866

不動產所有人設定抵押權後，於同一不動產上，得設定地上權或其他以使用收益為目的之物權，或成立租賃關係。但其抵押權不因此而受影響。

前項情形，抵押權人實行抵押權受有影響者，法院得除去該權利或終止該租賃關係後拍賣之。

不動產所有人設定抵押權後，於同一不動產上，成立第一項以外之權利者，準用前項之規定。

After the creation of a mortgage, the owner of a real property may, on the same real property, create superficies or other rights in rem for the purpose of benefiting from their use, or establish a lease relationship, but the mortgage will not be affected thereby.

When a mortgagee's enforcement of a mortgage is affected by circumstances described in the preceding paragraph, a court may remove such rights or terminate such lease relationships and thereafter auction the property.

The preceding paragraph applies mutatis mutandis when an owner of a real property, after creating a mortgage on the real property, creates rights other than the rights specified in paragraph 1 on the same real property.

第 867 條(抵押不動產之讓與及其效力)

不動產所有人設定抵押權後，得將不動產讓與他人。但其抵押權不因此而受影響。

Article 867

After the creation of a mortgage, the owner of the real property may transfer the real property to another person, but the mortgage will not be affected thereby.

第 868 條(不可分性(一) - 抵押物分割)

抵押之不動產如經分割，或讓與其一部，或擔保一債權之數不動產而以其一讓與他人者，其抵押權不因此而受影響。

Article 868

When a mortgaged real property is partitioned or partially transferred, or when one property among multiple real properties securing the same claim is transferred to another person, the mortgage is not affected thereby.

第 869 條(不可分性(二) - 債權分割)

以抵押權擔保之債權，如經分割或讓與其一部者，其抵押權不因此而受影響。

前項規定，於債務分割或承擔其一部時適用之。

Article 869

If a claim secured by a mortgage is partitioned or partially transferred, the mortgage is not affected thereby.

The provisions of the preceding paragraph apply when a debt is partitioned or partially assumed.

第 870 條(抵押權之從屬性)

抵押權不得由債權分離而為讓與，或為其他債權之擔保。

Article 870

A mortgage may neither be transferred nor furnished as security for any other claim by separating it from the claim that it secures.

第 870-1 條(抵押權次序之調整(一))

同一抵押物有多數抵押權者，抵押權人得以下列方法調整其可優先受償之分配額。但他抵押權人之利益不受影響：

一、為特定抵押權人之利益，讓與其抵押權之次序。

二、為特定後次序抵押權人之利

Article 870-1

If there are multiple mortgages on the same mortgaged property, a mortgagee may adjust its proportional share of preferential right to satisfaction by the following means, provided that the interests of the other mortgagees are not thereby affected:

1. Assigning the priority ranking of its mortgage in favor of a specified mortgagee.

2. Waiving the priority ranking of its mortgage in favor of a

益，拋棄其抵押權之次序。

三、為全體後次序抵押權人之利益，拋棄其抵押權之次序。

前項抵押權次序之讓與或拋棄，非經登記，不生效力。並應於登記前，通知債務人、抵押人及共同抵押人。

因第一項調整而受利益之抵押權人，亦得實行調整前次序在先之抵押權。

調整優先受償分配額時，其次序在先之抵押權所擔保之債權，如有第三人之不動產為同一債權之擔保者，在因調整後增加負擔之限度內，以該不動產為標的物之抵押權消滅。但經該第三人同意者，不在此限。

第 870-2 條(抵押權次序之調整(二))

調整可優先受償分配額時，其次序在先之抵押權所擔保之債權有保證人者，於因調整後所失優先受償之利益限度內，保證人免其責任。但經該保證人同意調整者，不在此限。

第 871 條(抵押權之保全(一) - 抵押物價值減少之防止)

抵押人之行為，足使抵押物之價值減少者，抵押權人得請求停止其行為。如有急迫之情事，抵押權人得自為必要之保全處分。

因前項請求或處分所生之費用，由抵押人負擔。其受償次序優先於各抵押權所擔保之債權。

第 872 條(抵押權之保全(二) - 抵押物價值減少之補救)

抵押物之價值因可歸責於抵押人之事由致減少時，抵押權人得定相當期限，請求抵押人回復抵押物之原狀，或提出與減少價額相當之擔保。

抵押人不於前項所定期限內，履行

specified mortgagee of lesser priority.

3. Waiving the priority ranking of its mortgage in favor of all mortgagees of lesser priority.

No assignment or waiver of the priority ranking of a mortgage pursuant to the preceding paragraph will take effect without registration. Prior to such registration, the mortgagee shall notify the debtor, the mortgagor, and any joint mortgagors.

A mortgagee who benefits from an adjustment in priority rankings under paragraph 1 also may enforce the mortgage with the higher pre-adjustment ranking.

When an adjustment is made to the proportional share of preferential right to satisfaction, if the claim secured by the higher ranking mortgage is also secured by real property of a third party, the mortgage to which the third party's real property is subject will be extinguished to the extent of any increase in encumbrance on the property that results from the adjustment, unless the third party has otherwise given its consent.

Article 870- 2

When an adjustment is made to the proportional share of preferential right to satisfaction, if the claim secured by the higher ranking mortgage is also secured by a guarantor, the guarantor shall be exempted from liability to the extent of any loss of the benefits of preferential satisfaction that results from the adjustment, unless the adjustment is made with the consent of the guarantor.

Article 871

If an act of a mortgagor is likely to cause a reduction in the value of the mortgaged property, the mortgagee may demand cessation of the act. Under urgent circumstances, the mortgagee himself may make a necessary disposition to safeguard the mortgage.

Costs incurred for a demand or disposition specified in the preceding paragraph shall be borne by the mortgagor. Such costs shall have priority of satisfaction over claims secured by any mortgage on the property.

Article 872

If the value of a mortgaged property has been reduced for reasons attributable to the mortgagor, the mortgagee may set an appropriate time limit and demand that the mortgagor restore the status quo ante of the said property or that the mortgagor provide a security commensurate with the amount of the reduction in value.

When a mortgagor fails to perform a demand made by a

抵押權人之請求時，抵押權人得定相當期限請求債務人提出與減少價額相當之擔保。屆期不提出者，抵押權人得請求清償其債權。

抵押人為債務人時，抵押權人得不再為前項請求，逕行請求清償其債權。

抵押物之價值因不可歸責於抵押人之事由致減少者，抵押權人僅於抵押人因此所受利益之限度內，請求提出擔保。

第 873 條(抵押權之實行)

抵押權人，於債權已屆清償期，而未受清償者，得聲請法院，拍賣抵押物，就其賣得價金而受清償。

第 873-1 條

約定於債權已屆清償期而未為清償時，抵押物之所有權移屬於抵押權人者，非經登記，不得對抗第三人。

抵押權人請求抵押人為抵押物所有權之移轉時，抵押物價值超過擔保債權部分，應返還抵押人；不足清償擔保債權者，仍得請求債務人清償。

抵押人在抵押物所有權移轉於抵押權人前，得清償抵押權擔保之債權，以消滅該抵押權。

第 873-2 條(實行抵押權之效果)

抵押權人實行抵押權者，該不動產上之抵押權，因抵押物之拍賣而消滅。

前項情形，抵押權所擔保之債權有未屆清償期者，於抵押物拍賣得受清償之範圍內，視為到期。

抵押權所擔保之債權未定清償期或清償期尚未屆至，而拍定人或承受抵押物之債權人聲明願在拍定或承受之抵押物價額範圍內清償債務，經抵押權人同意者，不適用

mortgagee within the time limit set under the preceding paragraph, the mortgagee may set an appropriate time limit and demand that the debtor provide security commensurate with the reduction in value. If the mortgagor fails to provide such security within the time limit, the mortgagee may demand full repayment of the claim.

When the mortgagor is the debtor, the mortgagee may immediately proceed to demand full repayment of the claim without first making the demand referred to in the preceding paragraph.

If the value of a mortgaged property has been reduced for reasons not attributable to the mortgagor, the mortgagee is entitled to demand the provision of security only to the extent of the benefit thereby received by the mortgagor.

Article 873

A mortgagee who has not been paid upon maturity of the claim may apply to a court to have the mortgaged property sold by auction and to receive payment out of the proceeds of the sale.

Article 873-1

A stipulation that ownership of mortgaged property will be transferred to the mortgagee upon failure to pay the claim at maturity shall not be effective against a third party unless it has been registered.

When a mortgagee demands that the mortgagor transfer the ownership of a mortgaged property, any portion of the property's value in excess of the claim it secures shall be returned to the mortgagor; if the mortgaged property is insufficient to repay the claim it secures, the mortgagee may demand full repayment of the obligation by the debtor.

Before the ownership of a mortgaged property has been transferred to the mortgagee, the mortgagor may extinguish the mortgage by repaying the claim secured by the mortgage.

Article 873-2

When a mortgagee enforces a mortgage, the mortgage on the real property is extinguished by the sale at auction of the mortgaged property.

In the circumstances referred to in the preceding paragraph, any unexpired payment period on the claim secured by the mortgage will be deemed to have expired to the extent that payment may be effected from the proceeds from the sale at auction of the mortgaged property.

If no payment period is specified for the claim secured by the mortgage or the payment period has not yet expired, and the auction winner or the creditor succeeding to the mortgaged property declares a willingness to pay the claim to the extent of the value of the mortgaged property as auctioned or received

前二項之規定。

through succession, and the mortgagee has consented, the provisions of the preceding two paragraphs shall not apply.

第 874 條(抵押物賣得價金之分配次序)

抵押物賣得之價金，除法律另有規定外，按各抵押權成立之次序分配之。其次序相同者，依債權額比例分配之。

Article 874

Except as otherwise provided by law, the proceeds from the sale of the mortgaged property shall be distributed to the mortgagees according to their priority ranking by order of the creation of the mortgages. For mortgages of the same rank, proceeds shall be distributed pro rata to the amounts of the claims secured by the mortgages.

第 875 條(共同抵押)

為同一債權之擔保，於數不動產上設定抵押權，而未限定各個不動產所負擔之金額者，抵押權人得就各個不動產賣得之價金，受債權全部或一部之清償。

Article 875

If a mortgage is created on multiple real properties for the purpose of securing the same claim but without specifying the amount to be apportioned against each of those real properties individually, the mortgagee may demand performance of the whole or a part of his claim from the proceeds from the sale of any and each of those real properties.

第 875-1 條

為同一債權之擔保，於數不動產上設定抵押權，抵押物全部或部分同時拍賣時，拍賣之抵押物中有為債務人所有者，抵押權人應先就該抵押物賣得之價金受償。

Article 875-1

If a mortgage is created on multiple real properties for the purpose of securing the same claim, when some or all of the properties are auctioned at the same time and any property or properties among those auctioned is owned by the debtor, the mortgagee shall receive satisfaction first from the proceeds from sale of the debtor's mortgaged property or properties.

第 875-2 條(內部分擔擔保債權金額之計算方式)

為同一債權之擔保，於數不動產上設定抵押權者，各抵押物對債權分擔之金額，依下列規定計算之：

Article 875-2

If a mortgage is created on multiple real properties for the purpose of securing the same claim, the amount to be apportioned toward the claim from each of the mortgaged properties shall be calculated as follows:

一、未限定各個不動產所負擔之金額時，依各抵押物價值之比例。

1. When the apportionment from each individual mortgaged property has not been specified, the apportionment shall be made pro-rata to the values of the properties.

二、已限定各個不動產所負擔之金額時，依各抵押物所限定負擔金額之比例。

2. When the apportionment from each individual mortgaged property has been specified, the apportionment shall be made pro-rata to the amounts specified for apportionment from the properties.

三、僅限定部分不動產所負擔之金額時，依各抵押物所限定負擔金額與未限定負擔金額之各抵押物價值之比例。

3. When the apportionment has been specified for only some of the mortgaged properties, the apportionment shall be made pro-rata to the amounts specified for apportionment from the properties and, for those properties for which no amount has been specified, to the values of the properties.

計算前項第二款、第三款分擔金額時，各抵押物所限定負擔金額較抵押物價值為高者，以抵押物之價值

When calculating the amounts to be apportioned under subparagraphs 2 and 3 of the preceding paragraph, when the amount specified for apportionment from any individual

為準。

mortgaged property is higher than the value of that mortgaged property, the value of the mortgaged property shall be used in the calculation.

第 875-3 條

為同一債權之擔保，於數不動產上設定抵押權者，在抵押物全部或部分同時拍賣，而其賣得價金超過所擔保之債權額時，經拍賣之各抵押物對債權分擔金額之計算，準用前條之規定。

Article 875- 3

If a mortgage is created on multiple real properties for the purpose of securing the same claim, if some or all of the mortgaged properties are sold by auction simultaneously, and the proceeds from their sale exceed the amount of the claim secured by the mortgages, the provisions of the preceding article apply mutatis mutandis to the calculation of the amount to be apportioned from each of the auctioned mortgaged properties toward payment of the claim.

第 875-4 條

為同一債權之擔保，於數不動產上設定抵押權者，在各抵押物分別拍賣時，適用下列規定：

Article 875- 4

If a mortgage is created on multiple real properties for the purpose of securing the same claim, if individual mortgaged properties are sold by auction separately, the following provisions apply:

一、經拍賣之抵押物為債務人以外之第三人所有，而抵押權人就該抵押物賣得價金受償之債權額超過其分擔額時，該抵押物所有人就超過分擔額之範圍內，得請求其餘未拍賣之其他第三人償還其供擔保抵押物應分擔之部分，並對該第三人之抵押物，以其分擔額為限，承受抵押權人之權利。但不得有害於該抵押權人之利益。

1. When a mortgaged property sold by auction is owned by a third party other than the debtor and the amount of satisfaction received on the claim by the mortgagee from the auction proceeds exceeds the amount apportionable from that property, the owner of the mortgaged property, within the extent of that excess amount, may demand reimbursement from any other third party or parties whose properties provided as security for the mortgage have not been auctioned, and may also succeed to the rights of the mortgagee in the mortgaged property of such other third parties, to the extent of their apportionment, unless such succession would be prejudicial to the rights of the mortgagee.

二、經拍賣之抵押物為同一人所有，而抵押權人就該抵押物賣得價金受償之債權額超過其分擔額時，該抵押物之後次序抵押權人就超過分擔額之範圍內，對其餘未拍賣之同一人供擔保之抵押物，承受實行抵押權人之權利。但不得有害於該抵押權人之利益。

2. When a mortgaged property sold by auction is owned by a given person and the amount of the mortgagee's claim satisfied out of the proceeds from auctioning that property exceeds the amount apportionable from that property, then a mortgagee with a junior mortgage on that same property, within the extent of that excess amount, succeeds to the rights of the enforcing mortgagee in any remaining mortgaged properties provided as security by the same given person that have not yet been auctioned, unless such succession would be prejudicial to the rights of the mortgagee.

第 876 條(法定地上權)

設定抵押權時，土地及其土地上之建築物，同屬於一人所有，而僅以土地或僅以建築物為抵押者，於抵押物拍賣時，視為已有地上權之設定，其地租、期間及範圍由當事人協議定之。不能協議者，得聲請法

Article 876

If the land and a building on such land are both owned by the same person at the time a mortgage is created, and either the land or the building only is mortgaged, a superficies is deemed to have been created and to exist at the time when the mortgaged property is sold by auction, and the land rental, term, and scope of the superficies shall be determined by agreement

院以判決定之。

設定抵押權時，土地及其土地上之建築物，同屬於一人所有，而以土地及建築物為抵押者，如經拍賣，其土地與建築物之拍定人各異時，適用前項之規定。

第 877 條(營造建築物之併付拍賣權)

土地所有人於設定抵押權後，在抵押之土地上營造建築物者，抵押權人於必要時，得於強制執行程序中聲請法院將其建築物與土地併付拍賣。但對於建築物之價金，無優先受清償之權。

前項規定，於第八百六十六條第二項及第三項之情形，如抵押之不動產上，有該權利人或經其同意使用之人之建築物者，準用之。

第 877-1 條

以建築物設定抵押權者，於法院拍賣抵押物時，其抵押物存在所必要之權利得讓與者，應併付拍賣。但抵押權人對於該權利賣得之價金，無優先受清償之權。

第 878 條(拍賣以外其他方法處分抵押物)

抵押權人於債權清償期屆滿後，為受清償，得訂立契約，取得抵押物之所有權或用拍賣以外之方法，處分抵押物，但有害於其他抵押權人之利益者，不在此限。

第 879 條(物上保證人之求償權)

為債務人設定抵押權之第三人，代為清償債務，或因抵押權人實行抵押權致失抵押物之所有權時，該第三人於其清償之限度內，承受債權人對於債務人之債權。但不得有害於債權人之利益。

債務人如有保證人時，保證人應分擔之部分，依保證人應負之履行責任與抵押物之價值或限定之金額

between the parties. If such an agreement cannot be reached, the parties may apply to a court for a judgment determining these.

If the land and a building on such land are both owned by the same person at the time a mortgage is created, and both the land and the building are mortgaged, if the land and the building are thereafter sold by auction to different bidders, the provision of the preceding paragraph shall apply.

Article 877

If, after the creation of a mortgage, the landowner constructs buildings on the mortgaged land, the mortgagee may when necessary apply to a court in the course of compulsory execution procedures to have the buildings sold by auction together with the land, but shall have no preferential right to satisfaction from the proceeds from the sale of such buildings.

The provisions of the preceding paragraph shall apply mutatis mutandis to any building of a rights holder, or used by a person with the rights holder's consent, on the mortgaged property under the circumstances set out in Article 866, paragraphs 2 and 3.

Article 877-1

When a mortgage is created on a building and the mortgaged property is subject to court auction, such assignable rights as necessarily inhere in the mortgaged property shall be auctioned together with it. The mortgagee, however, shall have no preferential right to satisfaction from the proceeds from the sale of those rights.

Article 878

A mortgagee who has not received payment by the maturity of a claim may enter into a contract to acquire the ownership of the mortgaged property, or dispose of it by any means other than an auction, unless so doing would be prejudicial to the interests of the other mortgagees.

Article 879

When a third party who creates a mortgage for a debtor pays the debt in full for such debtor, or loses the ownership in rem of the mortgaged property through the enforcement of the mortgage by the mortgagee, the third party succeeds to the claims of the creditor against the debtor to the extent required for repayment, unless such succession would be prejudicial to the rights of the creditor.

When the debtor has a guarantor, the portion of the debt for which the guarantor is obligated shall be determined pro rata by the guarantor's liability for performance relative to the value of,

比例定之。抵押物之擔保債權額少於抵押物之價值者，應以該債權額為準。

前項情形，抵押人就超過其分擔額之範圍，得請求保證人償還其應分擔部分。

第 879-1 條(物上保證人之免除責任)

第三人為債務人設定抵押權時，如債權人免除保證人之保證責任者，於前條第二項保證人應分擔部分之限度內，該部分抵押權消滅。

第 880 條(時效完成後抵押權之實行)

以抵押權擔保之債權，其請求權已因時效而消滅，如抵押權人，於消滅時效完成後，五年間不實行其抵押權者，其抵押權消滅。

第 881 條(抵押權之消滅)

抵押權除法律另有規定外，因抵押物滅失而消滅。但抵押人因滅失得受賠償或其他利益者，不在此限。

抵押權人對於前項抵押人所得行使之賠償或其他請求權有權利質權，其次序與原抵押權同。

給付義務人因故意或重大過失向抵押人為給付者，對於抵押權人不生效力。

抵押物因毀損而得受之賠償或其他利益，準用前三項之規定。

第二節 最高限額抵押權

第 881-1 條(最高限額抵押權)

稱最高限額抵押權者，謂債務人或第三人提供其不動產為擔保，就債權人對債務人一定範圍內之不特

or the specified monetary amount of apportionment from, the mortgaged property. When the amount of the claim secured by the mortgaged property is less than the value of the property, the amount of the claim secured by the property shall be used in calculation.

Under the circumstances of the preceding paragraph, the mortgagor may demand reimbursement from the guarantor of the portion for which the guarantor is obligated, to the extent that the portion for which the mortgagor is obligated has been exceeded.

Article 879- 1

When a third party creates a mortgage for a debtor, if the creditor waives the guarantor's liability for performance, a portion of the mortgage will be extinguished commensurate with the portion for which the guarantor is obligated pursuant to paragraph 2 of the preceding article.

Article 880

For a claim secured by a mortgage, if the right of claim is extinguished by prescription, the mortgage will be extinguished if not enforced by the mortgagee within five years after the completion of such prescription.

Article 881

Unless otherwise provided by law, a mortgage is extinguished by the destruction of the mortgaged property, unless the mortgagor is entitled to receive compensation or other benefits as a result of such destruction.

The mortgagee enjoys a pledge of rights over any right to compensation or other right of claim exercisable by the mortgagor as referred to in the preceding paragraph. The seniority of the pledge shall be the same as that of the original mortgage.

If a payment obligor, intentionally or through gross negligence, makes a payment to the mortgagor, the payment has no effect against the mortgagee.

The provisions of the preceding three paragraphs apply mutatis mutandis with respect to compensation or other benefits that may be received as a result of damage to a mortgaged property.

Section 2 - Line of Credit Mortgages

Article 881- 1

A line of credit mortgage is a mortgage created for not more than a specified maximum amount on real property belonging to a debtor or a third party and provided thereby to secure a

定債權，在最高限額內設定之抵押權。

最高限額抵押權所擔保之債權，以由一定法律關係所生之債權或基於票據所生之權利為限。

基於票據所生之權利，除本於與債務人間依前項一定法律關係取得者外，如抵押權人係於債務人已停止支付、開始清算程序，或依破產法有和解、破產之聲請或有公司重整之聲請，而仍受讓票據者，不屬最高限額抵押權所擔保之債權。但抵押權人不知其情事而受讓者，不在此限。

第 881-2 條

最高限額抵押權人就已確定之原債權，僅得於其約定之最高限額範圍內，行使其權利。

前項債權之利息、遲延利息、違約金，與前項債權合計不逾最高限額範圍者，亦同。

第 881-3 條(最高限額抵押權之抵押權人與抵押人變更債權範圍或其債務人)

原債權確定前，抵押權人與抵押人得約定變更第八百八十一條之一第二項所定債權之範圍或其債務人。

前項變更無須得後次序抵押權人或其他利害關係人同意。

第 881-4 條(最高限額抵押權所擔保之原債權(一) - 確定期日)

最高限額抵押權得約定其所擔保原債權應確定之期日，並得於確定之期日前，約定變更之。

前項確定之期日，自抵押權設定時起，不得逾三十年。逾三十年者，縮短為三十年。

creditor's unspecified claim within a specific scope against the debtor.

Claims secured by line of credit mortgages shall be limited to claims deriving from specific legal relationships or to rights deriving from negotiable instruments.

For rights deriving from negotiable instruments, with the exception of those obtained on the basis of a specific legal relationship with a debtor as referred to in the preceding paragraph, if the mortgagee accepts any further transfers of negotiable instruments once the debtor has ceased payment and begun liquidation proceedings, or once there has been any composition agreement, application for bankruptcy, or application for company reorganization pursuant to the Bankruptcy Act, the rights under such negotiable instruments are not a claim secured by the line of credit mortgage. This restriction shall not apply, however, if the mortgagee has accepted transfer of a negotiable instrument without knowledge of those circumstances.

Article 881- 2

The mortgagee of a line of credit mortgage may exercise rights with respect to the principal claim, once it has been determined, only within the stipulated maximum amount.

The mortgagee of a line of credit mortgage may exercise rights with respect to interest, default interest, and default penalties on a claim under the preceding paragraph only insofar as the aggregate sum of those items and the claim under the preceding paragraph does not exceed the stipulated maximum amount.

Article 881- 3

Prior to the determination of the principal claim, the mortgagee and the mortgagor may stipulate a change in the scope or in the debtor of a claim as set out in Article 881-1, paragraph 2.

A change referred to in the preceding paragraph does not require the consent of mortgagees holding junior mortgages or other interested parties.

Article 881- 4

A line of credit mortgage may stipulate a date on which the principal claim it secures shall be determined, and prior to the determination date, a change in that date may be stipulated.

The determination date referred to in the preceding paragraph may not be more than 30 years from the time the mortgage is created. If a period of 30 years from that time is exceeded, the period will be reduced to 30 years.

前項期限，當事人得更新之。

The time period referred to in the preceding paragraph may be renewed by the parties.

第 881-5 條(最高限額抵押權所擔保之原債權(二) - 未約定確定期日)

最高限額抵押權所擔保之原債權，未約定確定之期日者，抵押人或抵押權人得隨時請求確定其所擔保之原債權。前項情形，除抵押人與抵押權人另有約定外，自請求之日起，經十五日為其確定期日。

Article 881- 5

If no date has been stipulated for determination of the principal claim secured by a line of credit mortgage, the mortgagor or the mortgagee may at any time demand determination of the principal claim secured by the mortgage.

Under the circumstances referred to in the preceding paragraph, the day 15 days from the date of the demand will be the date for determination of the principal claim, unless otherwise stipulated between mortgagor and mortgagee.

第 881-6 條(最高限額抵押權所擔保債權移轉之效力)

最高限額抵押權所擔保之債權，於原債權確定前讓與他人者，其最高限額抵押權不隨同移轉。第三人為債務人清償債務者，亦同。

最高限額抵押權所擔保之債權，於原債權確定前經第三人承擔其債務，而債務人免其責任者，抵押人就該承擔之部分，不得行使最高限額抵押權。

Article 881- 6

If the claim secured by a line of credit mortgage is assigned to another person prior to determination of the principal claim, the line of credit mortgage is not transferred along with the claim. The same shall be true when a third party satisfies the debt on behalf of the debtor.

If, prior to determination of the principal claim, a third party assumes the claim secured by a line of credit mortgage, and the debtor is exempted from liability, the mortgagee may not exercise the line of credit mortgage with respect to the portion that has been assumed.

第 881-7 條(最高限額抵押權之抵押權人或債務人為法人之合併)

原債權確定前，最高限額抵押權之抵押權人或債務人為法人而有合併之情形者，抵押人得自知悉合併之日起十五日內，請求確定原債權。但自合併登記之日起已逾三十日，或抵押人為合併之當事人者，不在此限。

有前項之請求者，原債權於合併時確定。

合併後之法人，應於合併之日起十五日內通知抵押人，其未為通知致抵押人受損害者，應負賠償責任。前三項之規定，於第三百零六條或法人分割之情形，準用之。

Article 881- 7

If, prior to the determination of the principal claim, the mortgagee or the debtor of a line of credit mortgage is a juristic person and undergoes a merger, the mortgagor may, within 15 days from the date on which it learns of the merger, demand determination of the principal claim. This provision shall not apply, however, more than 30 days after the record date of the merger or when the mortgagor is a party to the merger.

When a demand is made pursuant to the preceding paragraph, the principal claim shall be determined at the time of merger.

The juristic person surviving or created by the merger shall notify the mortgagor within 15 days from the date of the merger, and shall be liable for damages for any injury to the mortgagor resulting from failure to make such notification.

The provisions of the preceding three paragraphs apply mutatis mutandis under the circumstances set out in Article 306 or to demerger by the juristic person.

第 881-8 條(單獨讓與最高限額抵押權之方式)

Article 881- 8

原債權確定前，抵押權人經抵押人之同意，得將最高限額抵押權之全部或分割其一部讓與他人。

原債權確定前，抵押權人經抵押人之同意，得使他人成為最高限額抵押權之共有人。

Prior to determination of the principal claim, the mortgagee may, with the consent of the mortgagor, assign the line of credit mortgage in whole or divide and assign it in part to a third person.

Prior to determination of the principal claim, the mortgagee may, with the consent of the mortgagor, cause another or others to become joint mortgage holders of the line of credit mortgage.

第 881-9 條(最高限額抵押權之共有)

最高限額抵押權為數人共有者，各共有人按其債權額比例分配其得優先受償之價金。但共有人於原債權確定前，另有約定者，從其約定。

共有人得依前項按債權額比例分配之權利，非經共有人全體之同意，不得處分。但已有應有部分之約定者，不在此限。

Article 881- 9

If multiple persons are joint mortgage holders of a line of credit mortgage, the share of each joint mortgage holder in proceeds to which the holders are preferentially entitled is allotted pro-rata to the holder's proportional share in the claim, unless otherwise stipulated by the joint mortgage holders prior to determination of the principal claim.

The right of a joint mortgage holder to be allotted a share pro-rata to its proportional share in the claim pursuant to the preceding paragraph may not be disposed of without the consent of all of the joint mortgage holders, unless prior stipulations have been made concerning the shares to which the mortgage holders are entitled.

第 881-10 條(共同最高限額抵押權原債權均歸於確定)

為同一債權之擔保，於數不動產上設定最高限額抵押權者，如其擔保之原債權，僅其中一不動產發生確定事由時，各最高限額抵押權所擔保之原債權均歸於確定。

Article 881-10

If line of credit mortgages are created on multiple real properties for the purpose of securing the same claim, and if there occurs cause for determination of the principal claim with respect even to just one among the mortgaged real properties securing the principal claim, the principal claim secured by each of the line of credit mortgages will thereupon be determined.

第 881-11 條(最高限額抵押權所擔保之原債權確定事由(一))

最高限額抵押權不因抵押權人、抵押人或債務人死亡而受影響。但經約定為原債權確定之事由者，不在此限。

Article 881-11

A line of credit mortgage is not affected by the death of the mortgagee, mortgagor, or debtor, unless such event has been stipulated as a cause for determination of the principal claim.

第 881-12 條(最高限額抵押權所擔保之原債權確定事由(二))

最高限額抵押權所擔保之原債權，除本節另有規定外，因下列事由之一而確定：

- 一、約定之原債權確定期日屆至者。
- 二、擔保債權之範圍變更或因其他事由，致原債權不繼續發生者。
- 三、擔保債權所由發生之法律關係

Article 881-12

Unless otherwise provided in this Section, any of the events below will be cause for determination of the principal claim secured by a line of credit mortgage:

1. The arrival of the stipulated date for determination of the principal claim.
2. A change in the scope of the secured claim, or any other event, that results in discontinuance of the principal claim.
3. The termination of the legal relationship under which the

經終止或因其他事由而消滅者。

四、債權人拒絕繼續發生債權，債務人請求確定者。

五、最高限額抵押權人聲請裁定拍賣抵押物，或依第八百七十三條之一之規定為抵押物所有權移轉之請求時，或依第八百七十八條規定訂立契約者。

六、抵押物因他債權人聲請強制執行經法院查封，而為最高限額抵押權人所知悉，或經執行法院通知最高限額抵押權人者。但抵押物之查封經撤銷時，不在此限。

七、債務人或抵押人經裁定宣告破產者。但其裁定經廢棄確定時，不在此限。

第八百八十一條之五第二項之規定，於前項第四款之情形，準用之。

第一項第六款但書及第七款但書之規定，於原債權確定後，已有第三人受讓擔保債權，或以該債權為標的物設定權利者，不適用之。

第 881-13 條

最高限額抵押權所擔保之原債權確定事由發生後，債務人或抵押人得請求抵押權人結算實際發生之債權額，並得就該金額請求變更為普通抵押權之登記。但不得逾原約定最高限額之範圍。

第 881-14 條

最高限額抵押權所擔保之原債權確定後，除本節另有規定外，其擔保效力不及於繼續發生之債權或取得之票據上之權利。

第 881-15 條(最高限額抵押權擔保債權之請求權消滅後之效力)

最高限額抵押權所擔保之債權，其請求權已因時效而消滅，如抵押權人於消滅時效完成後，五年間不實行其抵押權者，該債權不再屬於最高限額抵押權擔保之範圍。

secured claim was incurred, or extinguishment of that relationship due to any other cause.

4. Refusal by the creditor to allow incurrence of further claims, and a demand by the debtor for determination.

5. An application by the mortgagee of a line of credit mortgage for a court ruling for auction of the mortgaged property; a demand for transfer of ownership of the mortgaged property pursuant to Article 873-1; or the establishment of a contract pursuant to Article 878.

6. Attachment of the mortgaged property by a court due to an application by another creditor for compulsory execution, where the mortgagee of the line of credit mortgage knows of the attachment, or where the executing court notifies the mortgagee of the same, provided that this will not apply if the attachment of the property has been cancelled.

7. A court ruling pronouncing bankruptcy of the debtor or mortgagor, provided that this will not apply if the bankruptcy ruling has been vacated by a final and unappealable court ruling. The provisions of Article 881-5, paragraph 2, apply mutatis mutandis to subparagraph 4 of the preceding paragraph.

The provisos of paragraph 1, subparagraphs 6 and 7 do not apply if, after determination of the principal claim, a third party has taken assignment of the secured claim, or has created any right to which the claim is subject.

Article 881-13

After the occurrence of a cause for determination of the principal claim secured by a line of credit mortgage, the debtor or mortgagor may demand that the mortgagee provide a final accounting of the actual amount of the claim incurred, and may demand registration of that amount as amended to a regular mortgage. The amount registered, however, may not exceed the originally stipulated maximum amount of the mortgage.

Article 881-14

Except as otherwise provided in this Section, once the principal claim secured by a line of credit mortgage has been determined, the effectiveness of the security does not extend to any claim further incurred or any right in a negotiable instrument obtained subsequent to such determination.

Article 881-15

Once the right of claim over the claim secured by a line of credit mortgage has been extinguished by prescription, if the mortgagee does not enforce its mortgage right during the five years following the completion of such prescription, that claim is thenceforth excluded from the scope secured by the line of

credit mortgage.

第 881-16 條

最高限額抵押權所擔保之原債權確定後，於實際債權額超過最高限額時，為債務人設定抵押權之第三人，或其他對該抵押權之存在有法律上利害關係之人，於清償最高限額為度之金額後，得請求塗銷其抵押權。

Article 881-16

Following determination of the principal claim secured by a line of credit mortgage, if the actual amount of the claim exceeds the stipulated maximum amount of the mortgage, a third person who established the mortgage for the debtor, or any other person with a legal interest in the existence of the mortgage, may apply for its cancellation after repayment of an amount equivalent to the maximum amount.

第 881-17 條(最高限額抵押權準用普通抵押權之規定)

最高限額抵押權，除第八百六十一條第二項、第八百六十九條第一項、第八百七十條、第八百七十條之一、第八百七十條之二、第八百八十條之規定外，準用關於普通抵押權之規定。

Article 881-17

The provisions regarding regular mortgage apply mutatis mutandis to line of credit mortgages, with the exception of the provisions of Article 861, paragraph 2, Article 869, paragraph 1, Article 870, Article 870-1, Article 870-2, and Article 880.

第三節 其他抵押權

Section 3 - Other Mortgage

第 882 條(權利抵押權)

地上權、農育權及典權，均得為抵押權之標的物。

Article 882

A superficies, an agricultural right and a dian may be the object of a mortgage.

第 883 條(抵押權之準用)

普通抵押權及最高限額抵押權之規定，於前條抵押權及其他抵押權準用之。

Article 883

The provisions concerning regular mortgages and line of credit mortgages apply mutatis mutandis to the mortgages specified in the preceding article and other mortgages.

第七章 質權

Chapter 7 Pledge

第一節 動產質權

Section 1 - Pledge of Personal Property

第 884 條(動產質權之定義)

稱動產質權者，謂債權人對於債務人或第三人移轉占有而供其債權擔保之動產，得就該動產賣得價金優先受償之權。

Article 884

A pledge of personal property is a preferential right of a creditor to receive satisfaction of a claim from the proceeds from sale of personal property the possession of which has been transferred by a debtor or a third party as security for the claim.

第 885 條(設定質權之生效要件)

質權之設定，因供擔保之動產移轉於債權人占有而生效力。

Article 885

The creation of a pledge becomes effective by the transfer into the possession of the creditor of the personal property provided as security.

質權人不得使出質人或債務人代自己占有質物。

The pledgee may not cause the pledgor or the debtor to possess the pledged property in place of the pledgee.

第 886 條(質權之善意取得)

動產之受質人占有動產，而受關於占有規定之保護者，縱出質人無處分其質物之權利，受質人仍取得其質權。

Article 886

When a recipient of a pledge is in possession of the personal property and is protected by the provisions concerning possession, the recipient of the pledge acquires the pledge even if the pledgor has no right of disposal over the thing pledged.

第 887 條(動產質權之擔保範圍)

質權所擔保者為原債權、利息、遲延利息、違約金、保存質物之費用、實行質權之費用及因質物隱有瑕疵而生之損害賠償。但契約另有約定者，不在此限。

前項保存質物之費用，以避免質物價值減損所必要者為限。

Article 887

Unless otherwise provided by a covenant, a pledge secures the principal claim, interest, default interest, default penalties, cost of preserving the thing pledged, cost of executing the pledge, and damages for any injury arising from a concealed defect in the thing pledged.

The cost of preserving the thing pledged referred to in the preceding paragraph shall be limited to the cost necessary for preventing impairment of the value of the thing pledged.

第 888 條(質權人之注意義務)

質權人應以善良管理人之注意，保管質物。

質權人非經出質人之同意，不得使用或出租其質物。但為保存其物之必要而使用者，不在此限。

Article 888

The pledgee shall keep custody of the thing pledged with the due care of a good administrator.

The pledgee may not use the thing pledged or lease it to others except with the consent of the pledgor, provided that use necessary for the preservation of the thing pledged is not subject to this restriction.

第 889 條(質權人之孳息收取權)

質權人得收取質物所生之孳息。但契約另有約定者，不在此限。

Article 889

The pledgee may collect profits produced from the thing pledged, unless otherwise provided by a covenant.

第 890 條(孳息收取人之注意義務及其抵充)

質權人有收取質物所生孳息之權利者，應以對於自己財產同一之注意收取孳息，並為計算。

前項孳息，先抵充費用，次抵原債權之利息，次抵原債權。

孳息如須變價始得抵充者，其變價方法準用實行質權之規定。

Article 890

A pledgee who has the right to collect profits from the thing pledged shall do so with the same care he would take for his own property and shall render an account of the profits.

The profits as specified in the preceding paragraph shall first be applied to discharge the costs of collecting the profits, then to discharge the interest on the principal claim, and finally to discharge the principal claim.

If appraisal at current value is required before discharge may be made from the profits, the provisions regarding enforcement of pledge rights shall apply mutatis mutandis to the method of appraisal.

第 891 條(責任轉質 - 非常事變責任)

質權人於質權存續中，得以自己之責任，將質物轉質於第三人。其因轉質所受不可抗力之損失，亦應負責。

Article 891

For the duration of the pledge, the pledgee may, on his responsibility, sub-pledge the thing pledged to a third party. The pledgee shall be also responsible for any loss caused by force majeure resulting from the sub-pledge.

第 892 條(代位物 - 質物之變賣價金)

因質物有腐壞之虞，或其價值顯有減少，足以害及質權人之權利者，質權人得拍賣質物，以其賣得價金，代充質物。

前項情形，如經出質人之請求，質權人應將價金提存於法院。質權人屆債權清償期而未受清償者，得就提存物實行其質權。

Article 892

If the thing pledged is likely to be perishable or there is an obvious depreciation in its value sufficient to prejudice the rights of the pledgee, the pledgee may sell the thing pledged by auction and keep the proceeds from sale in place of the thing pledged.

Under the circumstances referred to in the preceding paragraph, the pledgee shall lodge the proceeds from sale of the thing pledged with a court if the pledgor so requests. The pledgee may enforce its pledge rights against the thing lodged with the court if the pledgee has not received payment upon maturity of the claim.

第 893 條(質權之實行)

質權人於債權已屆清償期，而未受清償者，得拍賣質物，就其賣得價金而受清償。

約定於債權已屆清償期而未為清償時，質物之所有權移屬於質權人者，準用第八百七十三條之一之規定。

Article 893

A pledgee who has not received payment upon maturity of the claim may sell the thing pledged by auction and receive payment from the proceeds of the sale.

The provisions of Article 873-1 apply mutatis mutandis to any stipulation that ownership of the thing pledged will be transferred to the pledgee upon failure to pay the claim upon maturity.

第 894 條(拍賣之通知義務)

前二條情形質權人應於拍賣前，通知出質人。但不能通知者，不在此限。

Article 894

Under the circumstances referred to in the two preceding articles, the pledgee shall notify the pledgor before the sale by auction, unless such notification is impracticable.

第 895 條(準用處分抵押物之規定)

第八百七十八條之規定，於動產質權準用之。

Article 895

The provisions of Article 878 shall apply mutatis mutandis to pledges of personal property.

第 896 條(質物之返還義務)

動產質權，所擔保之債權消滅時，質權人應將質物返還於有受領權之人。

Article 896

Upon the extinction of the claim secured by a pledge of personal property, the pledgee shall return the thing pledged to the person entitled to receive it.

第 897 條(質權之消滅(一) - 返還質物)

動產質權，因質權人將質物返還於出質人或交付於債務人而消滅。返還或交付質物時，為質權繼續存在之保留者，其保留無效。

Article 897

A pledge on personal property is extinguished when the pledgee returns the thing pledged to the pledgor or delivers it to the debtor. Upon the return or delivery of the thing pledged, any reservation made in contemplation of continuance of the pledge is void.

第 898 條(質權之消滅(二) - 喪失質物之占有)

質權人喪失其質物之占有，於二年

Article 898

A pledge of personal property is extinguished when the pledgee

內未請求返還者，其動產質權消滅。

loses possession of the thing pledged and does not within a period of two years thereafter demand its return.

第 899 條(質權之消滅(三) - 物上代位性)

動產質權，因質物滅失而消滅。但出質人因滅失得受賠償或其他利益者，不在此限。

質權人對於前項出質人所得行使之賠償或其他請求權仍有質權，其次序與原質權同。

給付義務人因故意或重大過失向出質人為給付者，對於質權人不生效力。

前項情形，質權人得請求出質人交付其給付物或提存其給付之金錢。質物因毀損而得受之賠償或其他利益，準用前四項之規定。

Article 899

A pledge of personal property is extinguished by the destruction or loss of the thing pledged, unless the pledgor is entitled to receive compensation or other benefits as a result of such loss or destruction.

The pledgee retains a pledge over any right to compensation or other right of claim exercisable by the pledgor as referred to in the preceding paragraph. The seniority of the pledge so retained is the same as that of the original pledge.

If a payment obligor, intentionally or through gross negligence, makes a payment to the pledgor, the payment has no effect against the pledgee.

Under the circumstances referred to in the preceding paragraph, the pledgee may demand that the pledgor deliver the thing given in payment or make a lodgment of the money paid.

The provisions of the preceding four paragraphs apply mutatis mutandis with respect to compensation or other benefits that may be received as a result of damage to a thing pledged.

第 899-1 條(最高限額質權之設定)

債務人或第三人得提供其動產為擔保，就債權人對債務人一定範圍內之不特定債權，在最高限額內，設定最高限額質權。

前項質權之設定，除移轉動產之占有外，並應以書面為之。

關於最高限額抵押權及第八百八十四條至前條之規定，於最高限額質權準用之。

Article 899- 1

A debtor or a third party may provide personal property belonging thereto to create a line of credit pledge, for not more than a specified maximum amount, to secure a creditor's unspecified claim within a specific scope against the debtor.

The creation of a pledge referred to in the preceding paragraph shall be done in writing, in addition to transferring the possession of the personal property.

The provisions regarding line of credit mortgages, and of Article 884 through the preceding article, apply mutatis mutandis to line of credit pledges.

第 899-2 條(營業質)

質權人係經許可以受質為營業者，僅得就質物行使其權利。出質人未於取贖期間屆滿後五日內取贖其質物時，質權人取得質物之所有權，其所擔保之債權同時消滅。

前項質權，不適用第八百八十九條至第八百九十五條、第八百九十九條、第八百九十九條之一之規定。

Article 899- 2

A pledgee that has received approval to engage in the business of taking pledges may exercise its rights only against the things pledged. If a pledgor does not redeem the thing pledged within five days after the expiration of the period for redemption, the pledgee obtains ownership of the thing pledged, and the claim that it secures is thereupon extinguished.

The provisions of Articles 889 to 895, Article 899, and Article 899-1 do not apply to pledges referred to in the preceding paragraph.

第二節 權利質權

Section 2 - Pledge of Rights

第 900 條(權利質權之定義)

Article 900

稱權利質權者，謂以可讓與之債權或其他權利為標的物之質權。

A pledge of rights is a pledge the subject of which is a transferable claim or other transferable right.

第 901 條(動產質權規定之準用)

權利質權，除本節有規定外，準用關於動產質權之規定。

Article 901

Unless otherwise provided in this section, the provisions concerning pledges of personal property shall apply mutatis mutandis to pledges of rights.

第 902 條(權利質權之設定)

權利質權之設定，除依本節規定外，並應依關於其權利讓與之規定為之。

Article 902

The creation of a pledge of rights shall be made in accordance with the provisions concerning the transfer of such rights, as well as with the provisions of this section.

第 903 條(處分質權標的物之限制)

為質權標的物之權利，非經質權人之同意，出質人不得以法律行為，使其消滅或變更。

Article 903

A pledgor may not, by means of a juristic act, cause a right that is the subject of a pledge to be extinguished or modified without the consent of the pledgee.

第 904 條(一般債權質之設定)

以債權為標的物之質權，其設定應以書面為之。
前項債權有證書者，出質人有交付之義務。

Article 904

If the subject of a pledge is a claim, the pledge shall be created in writing.
If there is any document evidencing a claim referred to in the preceding paragraph, the pledgor is obligated to deliver it.

第 905 條(一般債權質之實行(一) - 提存給付物)

為質權標的物之債權，以金錢給付為內容，而其清償期先於其所擔保債權之清償期者，質權人得請求債務人提存之，並對提存物行使其質權。
為質權標的物之債權，以金錢給付為內容，而其清償期後於其所擔保債權之清償期者，質權人於其清償期屆至時，得就擔保之債權額，為給付之請求。

Article 905

If a claim that is the subject of a pledge is a pecuniary claim with a maturity earlier than the maturity of the claim it secures, the pledgee may demand that the debtor lodge the payment for the pecuniary claim, and may exercise its pledge against the thing lodged.
If a claim that is the subject of a pledge is a pecuniary claim with a maturity later than the maturity of the claim it secures, then at the maturity of the claim secured by the pledge, the pledgee may demand payment of the amount of the claim secured by the pledge.

第 906 條(一般債權質之實行(二) - 請求給付)

為質權標的物之債權，以金錢以外之動產給付為內容者，於其清償期屆至時，質權人得請求債務人給付之，並對該給付物有質權。

Article 906

If a claim that is the subject of a pledge is a claim for payment by delivery of personal property other than money, then at the maturity of that claim, the pledgee may demand that the debtor deliver the personal property, and the pledgee will hold a pledge over the thing delivered.

第 906-1 條(一般債權質之實行(三) - 物權設定或移轉)

為質權標的物之債權，以不動產物權之設定或移轉為給付內容者，於

Article 906-1

If a claim that is the subject of a pledge is a claim for payment by the creation or transfer of rights in rem in real property, then

其清償期屆至時，質權人得請求債務人將該不動產物權設定或移轉於出質人，並對該不動產物權有抵押權。

前項抵押權應於不動產物權設定或移轉於出質人時，一併登記。

第 906-2 條

質權人於所擔保債權清償期屆至而未受清償時，除依前三條之規定外，亦得依第八百九十三條第一項或第八百九十五條之規定實行其質權。

第 906-3 條(權利質權之質權人得行使一定之權利)

為質權標之物之債權，如得因一定權利之行使而使其清償期屆至者，質權人於所擔保債權清償期屆至而未受清償時，亦得行使該權利。

第 906-4 條(通知義務)

債務人依第九百零五條第一項、第九百零六條、第九百零六條之一為提存或給付時，質權人應通知出質人，但無庸得其同意。

第 907 條(第三債務人之清償)

為質權標之物之債權，其債務人受質權設定之通知者，如向出質人或質權人一方為清償時，應得他方之同意。他方不同意時，債務人應提存其為清償之給付物。

第 907-1 條(債務人不得主張抵銷)

為質權標之物之債權，其債務人於受質權設定之通知後，對出質人取得債權者，不得以該債權與為質權標之物之債權主張抵銷。

第 908 條(有價證券債權質之設定)

質權以未記載權利人之有價證券為標之物者，因交付其證券於質權人，而生設定質權之效力。以其他之有價證券為標之物者，並應依背書方法為之。

前項背書，得記載設定質權之意

at the maturity of that claim, the pledgee may demand that the debtor create or transfer such rights in rem in the real property in favor of the pledgor, and the pledgee will hold a mortgage on the rights in rem in the real property.

At the time of the creation or transfer of the rights in rem in the property in favor of the pledgor, the mortgage referred to in the preceding paragraph shall be registered together therewith.

Article 906- 2

When a pledgee has not received payment upon maturity of the claim secured by a pledge, in addition to taking measures under the preceding three articles, the pledgee also may enforce its pledge in accordance with the provisions of Article 893, paragraph 1, or Article 895.

Article 906- 3

When a claim that is the subject of a pledge may be caused to reach maturity by the exercise of a certain right, the pledgee also may exercise that right when the pledgee has not received satisfaction upon maturity of the claim secured by the pledge.

Article 906- 4

When a debtor makes a lodgment or a payment in accordance with Article 905, paragraph 1, Article 906, or Article 906-1, the pledgee shall notify the pledgor but need not obtain the consent of the pledgor.

Article 907

If the subject of a pledge is a claim, and its debtor has been notified of the creation of the pledge, that debtor, when making any payment either to the pledgor or the pledgee, shall first obtain the consent of the other of those parties. In the absence of such consent the debtor shall lodge the thing given as payment.

Article 907- 1

If the subject of a pledge is a claim, and its debtor, after having been notified of the creation of the pledge, obtains any claim against the pledgor, that debtor may not assert offset of that claim against the claim that is the subject of the pledge.

Article 908

If the subject of a pledge is securities for which no rights holder is named, the creation of the pledge becomes effective by the delivery of the securities to the pledgee. If the subject is any other type of securities, endorsement is also required to be made.

The endorsement referred to in the preceding paragraph may

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include a notation as to the purpose for which the pledge is created.

第 909 條(有價證券債權質之實行)

質權以未記載權利人之有價證券、票據、或其他依背書而讓與之有價證券為標的物者，其所擔保之債權，縱未屆清償期，質權人仍得收取證券上應受之給付。如有使證券清償期屆至之必要者，並有為通知或依其他方法使其屆至之權利。債務人亦僅得向質權人為給付。

前項收取之給付，適用第九百零五條第一項或第九百零六條之規定。第九百零六條之二及第九百零六條之三之規定，於以證券為標的物之質權，準用之。

Article 909

If the subject of a pledge is securities for which no rights holder is named, a negotiable instrument, or any other securities transferred by endorsement, the pledgee may collect payments receivable on such securities even if the claim secured thereby has not matured. If to do so it is necessary to cause the securities to reach maturity, the pledgee shall also have the right to bring about the maturity by giving notice or by other means. And the debtor may make payments only to the pledgee.

The provisions of Article 905, paragraph 1, or Article 906 apply to payments collected pursuant to the preceding paragraph.

The provisions of Article 906-2 and Article 906-3 apply mutatis mutandis to pledges the subject of which is securities.

第 910 條(有價證券債權質之標的物範圍)

質權以有價證券為標的物者，其附屬於該證券之利息證券、定期金證券或其他附屬證券，以已交付於質權人為限，亦為質權效力所及。附屬之證券，係於質權設定後發行者，除另有約定外，質權人得請求發行人或出質人交付之。

Article 910

If the subject of a pledge is securities, the effect of the pledge further extends to attached interest coupons, fixed-payment securities, or any other attached securities, provided they have been delivered to the pledgee.

Unless otherwise stipulated, if attached securities are issued after the creation of the pledge, the pledgee may demand their delivery from the issuer or the pledgor.

第八章 典權

Chapter 8 Dian

第 911 條(典權之定義)

稱典權者，謂支付典價在他人之不動產為使用、收益，於他人不回贖時，取得該不動產所有權之權。

Article 911

Dian is, by delivering a price, the right to use and collect profits on a real property of another person, and the ownership of such real property is acquired if the said person refuses to redeem.

第 912 條(典權之期限)

典權約定期限不得逾三十年，逾三十年者縮短為三十年。

Article 912

The period of dian cannot exceed thirty years. If a period exceeding thirty years has been agreed upon, such period is to be reduced to thirty years.

第 913 條(絕賣之限制)

典權之約定期限不滿十五年者，不得附有到期不贖即作絕賣之條款。

Article 913

If a period of a dian less than fifteen years has been agreed upon, a clause, which provides that the property not redeemed on the date of expiration will be considered sold without a right of redemption, cannot be included in the contract.

If a clause, which provides that the property not redeemed on the date of expiration will be considered sold without a right of

典權附有絕賣條款者，出典人於典期屆滿不以原典價回贖時，典權人

即取得典物所有權。

絕賣條款非經登記，不得對抗第三人。

第 914 條
(刪除)

第 915 條(典物之轉典或出租)

典權存續中，典權人得將典物轉典或出租於他人。但另有約定或另有習慣者，依其約定或習慣。

典權定有期限者，其轉典或租賃之期限，不得逾原典權之期限，未定期限者，其轉典或租賃，不得定有期限。

轉典之典價，不得超過原典價。土地及其土地上之建築物同屬一人所有，而為同一人設定典權者，典權人就該典物不得分離而為轉典或就其典權分離而為處分。

第 916 條(轉典或出租之責任)

典權人對於典物因轉典或出租所受之損害，負賠償責任。

第 917 條(典權之讓與或抵押權之設定)

典權人得將典權讓與他人或設定抵押權。

典物為土地，典權人在其上有建築物者，其典權與建築物，不得分離而為讓與或其他處分。

第 917-1 條(典物之使用收益)

典權人應依典物之性質為使用收益，並應保持其得永續利用。

典權人違反前項規定，經出典人阻止而仍繼續為之者，出典人得回贖其典物。典權經設定抵押權者，並應同時將該阻止之事實通知抵押權人。

redemption, has been agreed upon, the dian-holder acquires the ownership of the property dianaed if the dian-maker refuses to redeem at the original dian price on the date of expiration.

A clause, which provides that the property not redeemed on the date of expiration will be considered sold without a right of redemption, shall not be effective against a third party unless it has been registered.

Article 914
(Repealed)

Article 915

For the duration of the dian, the dian-holder may sub-dian or lease the property dianaed to another person. Unless it is otherwise provided by agreement or by customs, such agreement or custom shall apply.

If the dian's duration has been fixed, the duration of the sub-dian or lease cannot exceed that of the original dian. In the absence of such fixed duration, the sub-dian or lease shall not have a fixed duration.

The price for the sub-dian cannot exceed the price of the original dian.

If the land and the buildings thereon belong to the same person, and a dian is created for one person, the dian-holder shall not separately sub-dian or dispose of the property dianaed.

Article 916

The dian-holder is liable to compensate for any injury caused to the property dianaed resulting from the sub-dian or lease.

Article 917

The dian-holder may transfer the dian to another person or create a mortgage.

If the property dianaed is a land, and the dian-holder has a building thereon, the dian and such building cannot be separately transferred or disposed of.

Article 917-1

The dian-holder shall use the property dianaed and acquire the profit therefrom according to the nature of the property dianaed, and shall maintain sustainable use for the property dianaed maintained.

If the dian-holder violates the provision of the preceding paragraph, the dian-maker is entitled to redeem the property dianaed if the dian-holder ignores his inhibition. If a mortgage is created on the dian, the mortgagee shall also be informed about such inhibition.

第 918 條(典權之讓與)

出典人設定典權後，得將典物讓與他人。但典權不因此而受影響。

Article 918

The dian-maker may after the creation of the dian transfer the property dianed to another person. However, the dian remains un-affected.

第 919 條(典權人之留買權)

出典人將典物出賣於他人時，典權人有以相同條件留買之權。

前項情形，出典人應以書面通知典權人。典權人於收受出賣通知後十日內不以書面表示依相同條件留買者，其留買權視為拋棄。

出典人違反前項通知之規定而將所有權移轉者，其移轉不得對抗典權人。

Article 919

When the dian-maker sells the property dianed to another person, the dian-holder has the right of first purchasing under the same terms and conditions.

In the case of the preceding paragraph, the dian-maker shall notify the dian-holder in writing accordingly. If the dian-holder fails to express his intent of purchasing in writing under the same terms and conditions within ten days after receiving the notice of sell, his right of first purchasing is deemed waived.

If the dian-maker violates the provision of notice of the preceding paragraph and transfers the ownership of the property dianed, such transfer shall not be effective against the dian-holder.

第 920 條(危險分擔 - 非常事變責任)

典權存續中，典物因不可抗力致全部或一部滅失者，就其滅失之部分，典權與回贖權，均歸消滅。

前項情形，出典人就典物之餘存部分，為回贖時，得由原典價扣除滅失部分之典價。其滅失部分之典價，依滅失時滅失部分之價值與滅失時典物之價值比例計算之。

Article 920

If, for the duration of the dian, the property dianed has been wholly or partially destroyed by force majeure, both the dian and the right of redemption are extinguished in respect to the part destroyed.

In the case of the preceding paragraph, if the dian-maker redeems the part remaining, he may deduct from original price received for the dian the price for the dian of the destroyed part. The price for the dian of the destroyed part is calculated according to the proportion of the value which the part destroyed had at the time of such destruction and the value which the property dianed had at the time of such destruction.

第 921 條(典權人之重建修繕權)

典權存續中，典物因不可抗力致全部或一部滅失者，除經出典人同意外，典權人僅得於滅失時滅失部分之價值限度內為重建或修繕。原典權對於重建之物，視為繼續存在。

Article 921

If, for the duration of the dian, the property dianed is wholly or partially destroyed by force majeure, the dian-holder may reconstruct or repair the property dianed within the value which the part destroyed had at the time of such destruction, unless otherwise agreed by the dian-maker. Original dian is deemed continually existing on the reconstruction.

第 922 條(典權人保管典物責任)

典權存續中，因典權人之過失，致典物全部或一部滅失者，典權人於典價額限度內，負其責任。但因故意或重大過失，致滅失者，除將典價抵償損害外，如有不足，仍應賠償。

Article 922

If, for the duration of the dian, the property dianed is wholly or partially destroyed due to the dian-holder's fault, he is liable for such destruction to the extent of the amount of the price given for the dian. However, if the destruction is caused by his intentional actions or gross negligence, he shall compensate for further injury, in addition to that covered by the price given for the dian.

第 922-1 條(重建之物原典權)

因典物滅失受賠償而重建者，原典權對於重建之物，視為繼續存在。

Article 922- 1

A reconstruction is financed by the compensation received from the loss of the property dianaed, the original dian shall be deemed as continuously existing upon the reconstructed property.

第 923 條(定期典權之回贖)

典權定有期限者，於期限屆滿後，出典人得以原典價回贖典物。

出典人於典期屆滿後，經過二年，不以原典價回贖者，典權人即取得典物所有權。

Article 923

If a period has been fixed for the duration of the dian, the dian-maker may redeem the property dianaed at the original price received for the dian after the end of such period.

If the dian-maker does not redeem the property dianaed at the original price received for the dian within two years from the end of the said period, the dian-holder acquires the ownership of the property dianaed.

第 924 條(未定期典權之回贖)

典權未定期限者，出典人得隨時以原典價回贖典物。但自出典後經過三十年不回贖者，典權人即取得典物所有權。

Article 924

If no period has been fixed for the duration of the dian, the dian-maker may redeem the property dianaed at any time at the original price received for the dian. However, if it is not redeemed within thirty years from the creation of the dian, the dian-holder acquires the ownership of the property dianaed.

第 924-1 條(轉典之典物回贖)

經轉典之典物，出典人向典權人為回贖之意思表示時，典權人不於相當期間向轉典權人回贖並塗銷轉典權登記者，出典人得於原典價範圍內，以最後轉典價逕向最後轉典權人回贖典物。

前項情形，轉典價低於原典價者，典權人或轉典權人得向出典人請求原典價與轉典價間之差額。出典人並得為各該請求權人提存其差額。

前二項規定，於下列情形亦適用之：

- 一、典權人預示拒絕塗銷轉典權登記。
- 二、典權人行蹤不明或有其他情形致出典人不能為回贖之意思表示。

Article 924- 1

When the dian-maker makes an expression of redeeming the property sub-dianaed to the dian-holder, if the dian-holder does not redeem from the sub-dian-holder and cancel the recordation of dian within a reasonable period, the dian-maker is entitled to redeem, within the price of original claim, the property dianaed from the last sub-dian holder at the price of the last sub-dianaed.

In the case of the preceding paragraph, if the price for sub-dian is lower than the price for the original dian, the dian-holder or the sub-dian-holder is entitled to claim the difference of the price between the original dian and the sub-dian. The dian-maker can also lodge the difference in amount for every person who is entitled to claim.

The provision of the preceding two paragraphs shall also apply to the following circumstances:

1. The dian-holder has previously declared that he refuses to cancel the recordation of the dian.
2. The dian-maker cannot make the expression of redemption because the dian-holder is missing or other circumstances.

第 924-2 條(典權存續之租賃係)

土地及其土地上之建築物同屬一人所有，而僅以土地設定典權者，典權人與建築物所有人間，推定在典權或建築物存續中，有租賃關係存在；其僅以建築物設定典權者，

Article 924- 2

Where the land and the building thereon are owned by the same person, and the dian is only created on the land, a lease relationship is presumed to exist between the dian-holder and the owner of the building during the existence of the dian or the building. If the dian is only created on the building, a lease

典權人與土地所有人間，推定在典權存續中，有租賃關係存在；其分別設定典權者，典權人相互間，推定在典權均存續中，有租賃關係存在。

前項情形，其租金數額當事人不能協議時，得請求法院以判決定之。依第一項設定典權者，於典權人依第九百十三條第二項、第九百二十三條第二項、第九百二十四條規定取得典物所有權，致土地與建築物各異其所有人時，準用第八百三十八條之一規定。

第 925 條(回贖之通知時期)

出典人之回贖，應於六個月前通知典權人。

第 926 條(找貼與其次數)

出典人於典權存續中，表示讓與其典物之所有權於典權人者，典權人得按時價找貼，取得典物所有權。

前項找貼，以一次為限。

第 927 條(有益費用之求償權)

典權人因支付有益費用，使典物價值增加，或依第九百二十一條規定，重建或修繕者，於典物回贖時，得於現存利益之限度內，請求償還。

第八百三十九條規定，於典物回贖時準用之。

典物為土地，出典人同意典權人在其上營造建築物者，除另有約定外，於典物回贖時，應按該建築物之時價補償之。出典人不願補償者，於回贖時視為已有地上權之設定。

出典人願依前項規定為補償而就時價不能協議時，得聲請法院裁定之；其不願依裁定之時價補償者，於回贖時亦視為已有地上權之設定。

relationship is presumed to exist between dian-holder and the landowner within the duration of the dian. If the dian is created on the land and the building respectively, a lease relationship is presumed to exist between the dian-holders within the duration of both dian.

In the case of the preceding paragraph, if the sum of the rental cannot be agreed upon by the parties, they can apply to a court for a judgment to determine it.

Where the dian is created according to the first paragraph, and the dian-holder acquiring the ownership of the property dianed according to the provisions of the second paragraph of Article 913, the second paragraph of Article 923 and Article 924 results in the land and the building owned by different person, the provision of Article 838-1 shall be applied.

Article 925

The redemption made by the dian-maker shall be informed to the dian-holder six months beforehand.

Article 926

If, for the duration of the dian, the dian-maker expresses to transfer to the dian-holder the ownership of the property dianed, the dian-holder may acquire such ownership by paying the difference between the current value of the property dianed and the price given for such dian.

The payment of the difference specified in the preceding paragraph shall be made once only.

Article 927

If beneficial outlays have been incurred by the dian-holder, whereby the value of the property dianed is increased or where reconstruction or repairs have been made in accordance with the provisions of Article 921, the dian-holder may demand return to the extent of the benefits existing at the time of the redemption of the said property.

The provision of Article 839 shall apply mutatis mutandis to the redemption of the said property.

If the property dianed is a land, and the dian-maker agrees the dian-holder to construct buildings on it, the dian-maker shall reimburse the dian-holder according to the current market price of such building at the time of the redemption of the said property, except there is another agreement. If the dian-maker refuses to reimburse, a superficies is deemed to be created at the time of the redemption.

If the dian-maker is willing to reimburse according to the preceding paragraph, but the parties cannot agree upon the current market price, the parties can apply to a court to determine the price. If the dian-maker refuses to reimburse according to the price decided by the court, a superficies is also

前二項視為已有地上權設定之情形，其地租、期間及範圍，當事人不能協議時，得請求法院以判決定之。

deemed to be created at the time of the redemption.

In the circumstance that a superficies is deemed to be created as specified in the preceding two paragraphs, if the parties cannot agree upon the rental, duration and scope, the parties can apply to a court to determine it.

第九章 留置權

Chapter 9 Right Of Retention

第 928 條(留置權之發生)

稱留置權者，謂債權人占有他人之動產，而其債權之發生與該動產有牽連關係，於債權已屆清償期未受清償時，得留置該動產之權。

債權人因侵權行為或其他不法之原因而占有動產者，不適用前項之規定。其占有之始明知或因重大過失而不知該動產非為債務人所有者，亦同。

Article 928

The right of retention is the right of a creditor who is in possession of the personal property of another to retain that personal property if there is a nexus between the occurrence of the creditor's claim and that property and the creditor has not received payment upon maturity of the claim.

The provisions of the preceding paragraph do not apply if the creditor possesses the personal property as the result of a tort or other unlawful cause, or if at the time the creditor took possession the creditor knew, or due to gross negligence failed to know, that the personal property is not owned by the debtor.

第 929 條(牽連係之擬制)

商人間因營業關係而占有之動產，與其因營業關係所生之債權，視為有前條所定之牽連關係。

Article 929

The nexus specified in the preceding article is deemed to exist where the personal property is taken into possession due to a business relationship existing between traders and the claim arises from that business relationship.

第 930 條(留置權發生之限制)

動產之留置，違反公共秩序或善良風俗者，不得為之。其與債權人應負擔之義務或與債權人債務人間之約定相牴觸者，亦同。

Article 930

Personal property may not be retained if retention is contrary to public order or good morals. The same shall be true if retention conflicts with a duty that shall be borne by the creditor or with a stipulation between creditor and debtor.

第 931 條(留置權之擴張)

債務人無支付能力時，債權人縱於其債權未屆清償期前，亦有留置權。

債務人於動產交付後，成為無支付能力，或其無支付能力於交付後始為債權人所知者，其動產之留置，縱有前條所定之牴觸情形，債權人仍得行使留置權。

Article 931

Upon the insolvency of the debtor, the creditor has the right of retention, even before the claim has matured.

If the debtor becomes insolvent after the delivery of the personal property or if his insolvency becomes known to the creditor only after such delivery, the creditor may exercise his right of retention, even if there exists a conflict referred to in the preceding article.

第 932 條(留置權之不可分性)

債權人於其債權未受全部清償前，得就留置物之全部，行使其留置權。但留置物為可分者，僅得依其債權與留置物價值之比例行使之。

Article 932

When a creditor has not yet received full payment of its claim, the creditor may exercise its right of retention against the whole of the thing retained, provided that if the thing retained is divisible, the creditor may exercise its right only pro rata by the ratio of its claim to the value of the thing retained.

第 932-1 條(留置物存有所有權以外之物權之效力)

留置物存有所有權以外之物權者，該物權人不得以之對抗善意之留置權人。

Article 932- 1

When rights in rem other than ownership rights exist in a thing retained, the holder of those rights in rem may not assert them against a bona fide holder of the right of retention.

第 933 條(準用規定)

第八百八十八條至第八百九十條及第八百九十二條之規定，於留置權準用之。

Article 933

The provisions of Articles 888 to 890 and of Article 892 apply mutatis mutandis to the right of retention.

第 934 條(必要費用償還請求權)

債權人因保管留置物所支出之必要費用，得向其物之所有人，請求償還。

Article 934

The creditor may demand reimbursement from the owner of the thing retained for any necessary outlays incurred for maintaining custody of the thing retained.

第 935 條

(刪除)

Article 935

(Repealed)

第 936 條(留置權之實行)

債權人於其債權已屆清償期而未受清償者，得定一個月以上之相當期限，通知債務人，聲明如不於其期限內為清償時，即就其留置物取償；留置物為第三人所有或存有其他物權而為債權人所知者，應併通知之。

債務人或留置物所有人不於前項期限內為清償者，債權人得準用關於實行質權之規定，就留置物賣得之價金優先受償，或取得其所有權。

不能為第一項之通知者，於債權清償期屆至後，經過六個月仍未受清償時，債權人亦得行使前項所定之權利。

Article 936

A creditor who has not received payment upon maturity of a claim may set an appropriate time limit of at least one month, notify the debtor, and declare that if the claim is not paid within the time limit, payment will be taken out of the thing retained. If the thing retained is owned by a third party or other rights in rem exist in the thing, and the creditor knows this, the creditor shall also notify the third party or rights holder at the same time. If the debtor or the owner of the thing retained does not pay the claim within the time limit specified in the preceding paragraph, the creditor may apply mutatis mutandis the provisions regarding the enforcement of pledge rights and receive preferential payment out of the proceeds from the sale of the retained thing or obtain ownership of the thing.

If notification under paragraph one is impossible, the creditor may also exercise the rights specified in the preceding paragraph if it has not yet received payment of the claim six months after maturity of the claim.

第 937 條(留置權之消滅 - 提出當擔保)

債務人或留置物所有人為債務之清償，已提出相當之擔保者，債權人之留置權消滅。

第八百九十七條至第八百九十九條之規定，於留置權準用之。

Article 937

If the debtor or the owner of the thing retained has furnished commensurate security for the payment of the claim, the creditor's right of retention is extinguished.

The provisions of Articles 897 to 899 apply mutatis mutandis to the right of retention.

第 938 條

(刪除)

Article 938

(Repealed)

第 939 條(留置權之準用)

本章留置權之規定，於其他留置權準用之。但其他留置權另有規定者，從其規定。

Article 939

The provisions of this Chapter regarding right of retention apply mutatis mutandis to any other rights of retention, provided that if there are separate provisions regarding such other rights of retention, those provisions shall govern.

第一〇章 占有**Chapter 10 Possession****第 940 條(占有人之意義)**

對於物有事實上管領之力者，為占有人。

Article 940

A possessor is a person who has a controlling power de facto over a thing.

第 941 條(間接占有人)

地上權人、農育權人、典權人、質權人、承租人、受寄人，或基於其他類似之法律關係，對於他人之物為占有者，該他人為間接占有人。

Article 941

If a person possesses a thing of another as a superficiary, agricultural right holder, dian-holder, lien creditor, lessee, or depositary, or by virtue of some other similar legal relationship, such other person is an indirect possessor.

第 942 條(占有輔助人)

受僱人、學徒、家屬或基於其他類似之關係，受他人之指示，而對於物有管領之力者，僅該他人為占有人。

Article 942

If, by following the instructions of another person, a person has the controlling power over a thing as an employee, apprentice, or family member or by virtue of some other similar relation he is entitled to the said power, then only such other person is the possessor.

第 943 條(占有權利之推定與排除)

占有人於占有物上行使之權利，推定其適法有此權利。

Article 943

A possessor is presumed to have legally the right which he exercises in rem of thing possessed.

前項推定，於下列情形不適用之：

The presumption provided in the preceding paragraph shall not apply to the following circumstances:

一、占有已登記之不動產而行使物權。

1. Possess the registered real property and exercise its rights in rem.

二、行使所有權以外之權利者，對使其占有之人。

2. Exercise the rights other than ownership to the person who has put it in his possession.

第 944 條(占有態樣之推定)

占有人推定其為以所有之意思，善意、和平、公然及無過失占有。

Article 944

It is presumed that the possessor possesses a thing with the intent of being its owner, in good faith, peacefully, openly and not negligently.

經證明前後兩時為占有者，推定前後兩時之間，繼續占有。

If it is proved that possession existed at the beginning and at the end of a period, it is presumed that the possessor has been in continuous possession during the intermediate time.

第 945 條(占有之變更)

占有依其所由發生之事實之性質，無所有之意思者，其占有人對於使其占有之人表示所有之意思

Article 945

When, according to the nature of the facts from which the possession of a thing originates, the possessor has no intent of being its owner, he takes the possession with the intention of

時起，為以所有之意思而占有。其因新事實變為以所有之意思占有者，亦同。

使其占有之人非所有人，而占有人於為前項表示時已知占有物之所有人者，其表示並應向該所有人為之。

前二項規定，於占有人以所有之意思占有變為以其他意思而占有，或以其他意思之占有變為以不同之其他意思而占有者，準用之。

第 946 條(占有之移轉)

占有之移轉，因占有物之交付而生效力。

前項移轉，準用第七百六十一條之規定。

第 947 條(占有之合併)

占有之繼承人或受讓人，得就自己之占有或將自己之占有與其前占有人之占有合併，而為主張。

合併前占有人之占有而為主張者，並應承繼其瑕疵。

第 948 條(善意受讓)

以動產所有權，或其他物權之移轉或設定為目的，而善意受讓該動產之占有者，縱其讓與人無讓與之權利，其占有仍受法律之保護。但受讓人明知或因重大過失而不知讓與人無讓與之權利者，不在此限。

動產占有之受讓，係依第七百六十一條第二項規定為之者，以受讓人受現實交付且交付時善意為限，始受前項規定之保護。

第 949 條(善意受讓之例外 - 盜竊遺失物或非因己意喪失占有之回復請求)

占有物如係盜竊、遺失物或其他非基於原占有人之意思而喪失其占有者，原占有人自喪失占有之時起二年以內，得向善意受讓之現占有人請求回復其物。

being its owner from the time when he expresses such intent to the person who has put it in his possession. The same rules shall apply when the possession becomes one with the intent of being its owner through a new fact.

Where the person who has put it in his possession is not the owner, and the possessor already knows the exact owner of the thing possessed when he made the expression as specified in the preceding paragraph, the possessor shall also express his intent to the said owner.

The preceding two paragraphs shall apply mutatis mutandis to where the possessor with the intent of being its owner changes his intent of possession to that other than the intent of being an owner, and the possessor with one intent of possession changes his intent to another intent of possession.

Article 946

The transfer of possession becomes effective by the delivery of the thing possessed.

The provisions of Article 761 shall apply mutatis mutandis to the transfer as specified in the preceding paragraph.

Article 947

The successor or transferee in a possession may assert either his own possession or his possession together with that of his predecessor.

In case the possessor asserts the possession of the predecessor together with that of his own, he succeeds also to its defects.

Article 948

If, with the purpose of transferring the ownership of, or creating other rights to a personal property, a person in good faith takes the possession of such personal property, such possession shall be protected by law, even though the transferor had no right to transfer it. Provided, however, this provision shall not apply, if the transferee knows, or does not know with gross negligence, that the transferor has no right to transfer it.

If a personal property's possession is transferred according to the provisions of Paragraph Two, Article 761, the transferee shall only be protected by the preceding paragraph, if he receives delivery and is in good faith at the time of delivery.

Article 949

If the thing possessed is a steal, lost property, or its original possessor has lost possession unintentionally, the original possessor is entitled to demand from the current possessor, who in a good faith takes the possession of such property, the restoration of the thing within two years from the time when he lost possession.

依前項規定回復其物者，自喪失其占有時起，回復其原來之權利。

Once the thing is restored in accordance with the preceding paragraph, the rights on it have also been restored from the time the possession was lost.

第 950 條(善意受讓之例外 - 盜竊遺失物或非因己意喪失占有回復請求之限制)

盜竊、遺失物或其他非基於原占有人之意思而喪失其占有之物，如現占有人由公開交易場所，或由販賣與其物同種之物之商人，以善意買得者，非償還其支出之價金，不得回復其物。

Article 950

If the steal or the lost property, or other thing which its original possessor unintentionally lost possession, is bought in good faith by the current possessor in an open trade market, or from traders selling things similar to the one possessed, the thing cannot be restored without returning the buyer with the price he paid for it.

第 951 條(盜竊遺失物或非因己意喪失占有回復請求之禁止)

盜竊、遺失物或其他非基於原占有人之意思而喪失其占有之物，如係金錢或未記載權利人之有價證券，不得向其善意受讓之現占有人請求回復。

Article 951

In case the steal or the lost property or other thing which its original possessor unintentionally lost possession consists of moneys or securities for which no right holder is named, restoration of the same cannot be demanded from its bona fide current possessor.

第 951-1 條(排除惡意占有之適用)

第九百四十九條及第九百五十條規定，於原占有人為惡意占有者，不適用之。

Article 951- 1

The provisions of Article 949 and Article 950 shall not apply to the original possessor who is a mala fide possessor.

第 952 條(善意占有之權利)

善意占有人於推定其為適法所有之權利範圍內，得為占有物之使用、收益。

Article 952

A bona fide possessor may use the thing possessed and collect the profits therefrom within the scope of his legally presumed right.

第 953 條(善意占有之責任)

善意占有人就占有物之滅失或毀損，如係因可歸責於自己之事由所致者，對於回復請求人僅以滅失或毀損所受之利益為限，負賠償之責。

Article 953

If, in consequence of circumstances for which the bona fide possessor is responsible the thing possessed is lost or destroyed, he is liable for the injury to the person demanding the restoration only to the extent of the interests which he, the said possessor, has received by reason of the destruction or damaged.

第 954 條(善意占有之必要費用求償權)

善意占有人因保存占有物所支出之必要費用，得向回復請求人請求償還。
但已就占有物取得孳息者，不得請求償還通常必要費用。

Article 954

A bona fide possessor may demand from the person demanding restoration return of any necessary outlays incurred for the preservation of the thing possessed.
However, he cannot demand to return the general necessary outlays, if he has collected the profits of the said thing.

第 955 條(善意占有之有益費用求償權)

Article 955

善意占有人，因改良占有物所支出之有益費用，於其占有物現存之增加價值限度內，得向回復請求人，請求償還。

A bona fide possessor may demand from the person demanding restoration return for any beneficial outlays incurred for the improvement of the thing possessed in so far as the existing value of the thing is increased thereby.

第 956 條(惡意占有人之責任)

惡意占有人或無所有意思之占有人，就占有物之滅失或毀損，如係因可歸責於自己之事由所致者，對於回復請求人，負賠償之責。

Article 956

If, owing to circumstances for which a mala fide possessor or anyone possessing the thing without the intent of being its owner is responsible, the thing possessed is lost or destroyed, he is liable to the person demanding restoration for any injury arising therefrom.

第 957 條(惡意占有人之必要費用求償權)

惡意占有人，因保存占有物所支出之必要費用，對於回復請求人，得依關於無因管理之規定，請求償還。

Article 957

A mala fide possessor may demand from the person demanding restoration return for any necessary outlays incurred for the preservation of the thing possessed in accordance with the provisions concerning management of affairs without mandate.

第 958 條(惡意占有人之返還孳息義務)

惡意占有人，負返還孳息之義務。其孳息如已消費，或因其過失而毀損，或怠於收取者，負償還其孳息價金之義務。

Article 958

A mala fide possessor is liable for the return of profits. If the profits have been consumed, or have been destroyed through his negligence, or have not been collected through his neglect, he is bound to compensate for the value of such profits.

第 959 條(視為惡意占有人)

善意占有人自確知其無占有本權時起，為惡意占有人。

善意占有人於本權訴訟敗訴時，自訴狀送達之日起，視為惡意占有人。

Article 959

A bona fide possessor becomes a mala fide possessor since he is sure that he has no right to possess the thing.

A bona fide possessor, who loses in an action concerning his right which the possession originates, is deemed to be as a mala fide possessor from the date the notice of complaint is served.

第 960 條(占有人之自力救濟)

占有人，對於侵奪或妨害其占有之行為，得以己力防禦之。

占有物被侵奪者，如係不動產，占有人得於侵奪後，即時排除加害人而取回之；如係動產，占有人得就地或追蹤向加害人取回之。

Article 960

A possessor may defend himself with his own force against any act which deprives him of or interferes with his possession.

If the thing possessed has been seized, the possessor may, if it is a real property, retrieve the same by expelling the tortfeasor immediately after the seizure; or, if it is a personal property, retrieve it from the tortfeasor in the very act or in a pursuit.

第 961 條(占有輔助人之自力救濟)

依第九百四十二條所定對於物有管領力之人，亦得行使前條所定占有之權利。

Article 961

The person entitled to the controlling power as specified in Article 942 may also exercise the right of the possessor provided by the preceding article.

第 962 條(占有人之物上請求權)

占有人，其占有被侵奪者，得請求返還其占有物；占有被妨害者，得

Article 962

If possession has been deprived from a possessor, he may demand the return of the thing possessed; if it is interfered with,

請求除去其妨害；占有有被妨害之虞者，得請求防止其妨害。

he may demand the removal of the interference; and if it is in danger of being interfered with, he may demand the prevention of such interference.

第 963 條(占有物上請求權之消滅時效)

前條請求權，自侵奪或妨害占有或危險發生後，一年間不行使而消滅。

Article 963

The claim as specified in the preceding article is extinguished by prescription, if it is not exercised within one year from the time of the deprivation or interference or from the existence of the danger of being interfered with.

第 963-1 條(共同占有人之自力救濟及物上請求權)

數人共同占有一物時，各占有人得就占有物之全部，行使第九百六十條或第九百六十二條之權利。依前項規定，取回或返還之占有物，仍為占有人全體占有。

Article 963- 1

If several persons possess a thing in common, each possessor may exercise the rights provided by Article 960 or Article 962 over the thing possessed as a whole. The thing retrieved or returned in accordance with the preceding paragraph shall be possessed for all the possessors.

第 964 條(占有之消滅)

占有，因占有人喪失其對於物之事實上管領力而消滅。但其管領力僅一時不能實行者，不在此限。

Article 964

The possession of a thing is extinguished by the loss of the controlling power de facto, which the possessor exercises in rem of said thing, unless the loss of such controlling power is only temporary.

第 965 條(共同占有)

數人共同占有一物時，各占有人就其占有物使用之範圍，不得互相請求占有之保護。

Article 965

If several persons possess a thing in common, each possessor cannot demand for the protection of possession against other possessor in so far as the extent of using the said thing is concerned.

第 966 條(準占有)

財產權，不因物之占有而成立者，行使其財產權之人，為準占有人。

本章關於占有之規定，於前項準占有準用之。

Article 966

A quasi-possessor is a person who exercises such property rights over a thing as are established without having taken possession of the said thing. The provisions of the present chapter concerning possession shall apply mutatis mutandis to the quasi-possession as specified in the preceding paragraph.

第四編 親屬

Part IV Family

第一章 通則

Chapter I General Provisions

第 967 條(直系與旁系血親)

稱直系血親者，謂己身所從出或從己身所出之血親。

稱旁系血親者，謂非直系血親，而

Article 967

The lineal relative by blood is the relative by blood of a person from whom that person is descended or he who is descended from that person. The collateral relative by blood is the nonlinear relative of a

與己身出於同源之血親。

person who is descended from the same common ancestor as that person himself is.

第 968 條(親等之計算)

血親親等之計算，直系血親，從己身上下數，以一世為一親等；旁系血親，從己身數至同源之直系血親，再由同源之直系血親，數至與之計算親等之血親，以其總世數為親等之數。

Article 968

The degree of relationship by blood between a person and his lineal relative by blood shall be determined by counting the number of generations upwards or downwards from himself [as the case may be], one generation being taken as one degree. As between the person and his collateral relative, the degree of relationship shall be determined by the total number of generations counting upwards from himself to the common lineal ancestor and then from such common ancestor downwards to the relative by blood with whom the degree of relationship is to be determined.

第 969 條(姻親之定義)

稱姻親者，謂血親之配偶、配偶之血親及配偶之血親之配偶。

Article 969

The relative by marriage of a person includes the spouse of his relative by blood, the relative by blood of his spouse and the person who is married to the relative by blood of his spouse.

第 970 條(姻親之親系及親等)

姻親之親系及親等之計算如左：

- 一、血親之配偶，從其配偶之親系及親等。
- 二、配偶之血親，從其與配偶之親系及親等。
- 三、配偶之血親之配偶，從其與配偶之親系及親等。

Article 970

The line and degree of relationship between relatives by marriage shall be determined as follows:

- (1) In regard to the spouse of a relative by blood, by the line and degree of relationship of the person who is married to the said spouse;
- (2) In regard to a relative by blood of a spouse, by the line and the degree of relationship between such relative by blood and the said spouse;
- (3) In regard to the person who is married to the relative by blood of his spouse, by the line and the degree of relationship between such person and the said spouse.

第 971 條(姻親關係之消滅)

姻親關係，因離婚而消滅；結婚經撤銷者亦同。

Article 971

Divorce terminates the relationship between relatives by marriage. The same rule is applicable to the annulment of marriage.

第二章婚姻

Chapter II Marriage

第一節婚約

Section 1 Betrothal

第 972 條(婚約之要件(一))

婚約，應由男女當事人自行訂定。

Article 972

An agreement to marry shall be made by the male and the female parties in their own [con]cord.

第 973 條(婚約之要件(二))

男未滿十七歲，女未滿十五歲者，

Article 973

A male who has not reached his seventeenth year of age and a

不得訂定婚約。

female her fifteenth [ma]y not make an agreement to marry.

第 974 條(婚約之要件(三))

未成年人訂定婚約，應得法定代理人之同意。

Article 974

Where a minor makes an agreement to marry, he shall obtain the consent of his statutory agent in advance.

第 975 條(婚約之效力)

婚約，不得請求強迫履行。

Article 975

No demand shall be made to force the performance of an agreement to marry.

第 976 條(婚約解除之事由及方法)

婚約當事人之一方，有左列情形之一者，他方得解除婚姻約：

Article 976

Where one of the betrothed parties is found in one of the following conditions, the [other] party may dissolve the agreement to marry:

一、婚約訂定後，再與他人訂定婚約或結婚者。

(1) Where, having made an agreement to marry, the party made another agreement to marry or concluded a marriage with another person;

二、故違結婚期約者。

(2) Where the party willfully fails to observe the appointed date of marriage;

三、生死不明已滿一年者。

(3) Where the party's life has been uncertain for over a year;

四、有重大不治之病者。

(4) Where the party gets a serious and incurable disease;

五、有花柳病或其他惡疾者。

(5) Where the party gets a venereal or other loathsome disease;

六、婚約訂定後成為殘廢者。

(6) Where, having made the agreement to marry, the party becomes permanently disabled;

七、婚約訂定後與人通姦者。

(7) Where, having made the agreement to marry, the party had sexual intercourse with a third person;

八、婚約訂定後受徒刑之宣告者。

(8) Where, having made the agreement to marry, the party was sentenced to imprisonment;

九、有其他重大事由者。

(9) Where other grave reasons exist.

依前項規定解除婚約者，如事實上不能向他方為解除之意思表示時，無須為意思表示，自得為解除時起，不受婚約之拘束。

In the case where a person intends to dissolve an agreement to marry according to the provisions of the preceding paragraph, and if the circumstances do not allowed him to declare such intention to the other party, it is not necessary for him to do so, and he is no longer bound by the agreement since the conditions described in the preceding paragraph have occurred.

第 977 條(解除婚約之賠償)

依前條之規定，婚約解除時，無過失之一方，得向有過失之他方，請求賠償其因此所受之損害。

Article 977

Where an agreement to marry has been dissolved in accordance with the provisions of the preceding article, the innocent party may claim compensation from the other party who is at fault for damage thus sustained.

前項情形，雖非財產上之損害，受害人亦得請求賠償相當之金額。

In the case provided in the preceding paragraph, the injured party may still claim an equitable compensation in money for a non-pecuniary loss.

前項請求權不得讓與或繼承。但已依契約承諾，或已起訴者，不在此限。

The right to claim in the preceding paragraph shall not be assigned to others or be passed to heirs, unless it has been acknowledged by a contract or unless an action has been commenced.

第 978 條(違反婚約之損害賠償)

(一))

婚約當事人之一方，無第九百七十六條之理由而違反婚約者，對於他方因此所受之損害，應負賠償之責。

Article 978

One party to an agreement to marry, who breaks it without any of the grounds provided in Article 976, shall be liable to compensate the other party for any damage thus sustained.

第 979 條(違反婚約之損害賠償)

(二))

前條情形，雖非財產上之損害，受害人亦得請求賠償相當之金額。但以受害人無過失者為限。

前項請求權，不得讓與或繼承。但已依契約承諾或已起訴者，不在此限。

Article 979

In the case provided in the preceding article, the injured party may still claim an equitable compensation in money for a non-pecuniary loss, provide that he is not at fault.

The claim in the preceding paragraph shall not be assigned to others or be passed to heirs, unless it has been acknowledged by a contract or unless an action has been commenced.

第 979-1 條(贈與物之返還)

因訂定婚約而為贈與者，婚約無效、解除或撤銷時，當事人之一方，得請求他方返還贈與物。

Article 979-1

One party may claim the other party for returning gift presented for betrothal when the agreement to marry is null and void, or dissolved, or annulled.

第 979-2 條(贈與物返還請求權之消滅時效)

第九百七十七條至第九百七十九條之一所規定之請求權，因二年間不行使而消滅。

Article 979-2

The claim pursuant to the provisions in Article 977 through Article 979-1 shall be extinguished if it is not exercised within two years.

第二節結婚**Section 2 Conclusion of Marriage****第 980 條(結婚之實質要件(一) - 結婚年齡)**

男未滿十八歲者，女未滿十六歲者，不得結婚。

Article 980

A man who has not completed his eighteenth year of age and a woman her sixteenth may not conclude a marriage.

第 981 條(結婚之實質要件(二) - 未成年人結婚之同意)

未成年人結婚，應得法定代理人之同意。

Article 981

A minor must have the consent of his statutory agent for concluding a marriage.

第 982 條(結婚之形式要件)

結婚應以書面為之，有二人以上證人之簽名，並應由雙方當事人向戶政機關為結婚之登記。

Article 982

A marriage shall be effected in writing, which requires the signatures of at least two witnesses, and by the registration at the Household Administration Bureau.

第 983 條(結婚之實質要件(三) - 須非一定之親屬)

與左列親屬，不得結婚：

一、直系血親及直系姻親。

二、旁系血親在六親等以內者。但

Article 983

A person may not marry any of the following relatives:

(1) A lineal relative by blood or by marriage;

(2) A collateral relative by blood is within the sixth degree of relationship. The limit to marriage shall not be applicable to

因收養而成立之四親等及六親等旁系血親，輩分相同者，不在此限。

三、旁系姻親在五親等以內，輩分不相同者。

前項直系姻親結婚之限制，於姻親關係消滅後，亦適用之。

第一項直系血親及直系姻親結婚之限制，於因收養而成立之直系親屬間，在收養關係終止後，亦適用之。

persons of lineal relative within the fourth degree of relationship and collateral relative within the sixth degree of relationship by adoption.

(3) A collateral relative by marriage is within the fifth degree of relationship of a different rank.

The marriage prohibitions between relatives by marriage provided in the preceding paragraph shall continue to apply even after the dissolution of the marriage which has created the relationship.

The limit to marriage with the lineal relative by blood or by marriage set forth in the first paragraph hereof shall be applicable to persons of lineal relative by adoption after ending of the adoption relationship.

第 984 條(結婚之實質要件(四) - 須無監護關係)

監護人與受監護人，於監護關係存續中，不得結婚。但經受監護人父母之同意者，不在此限。

Article 984

A guardian may not marry his ward during the continuance of guardianship, unless consent of the ward's parents has been obtained.

第 985 條(結婚之實質要件(五) - 須非重婚)

有配偶者，不得重婚。

一人不得同時與二人以上結婚。

Article 985

A person who has a spouse may not contract another marriage.

A person shall not marry with two or more persons simultaneously.

**第 986 條
(刪除)**

Article 986

(Repealed)

**第 987 條
(刪除)**

Article 987

(Repealed)

第 988 條(結婚之無效)

結婚有下列情形之一者，無效：

一、不具備第九百八十二條之方式。

二、違反第九百八十三條規定。

三、違反第九百八十五條規定。但重婚之雙方當事人因善意且無過失信賴一方前婚姻消滅之兩願離婚登記或離婚確定判決而結婚者，不在此限。

Article 988

A marriage is void if any one of the following conditions are met:

(1) Where it does not conform to the formalities provided by Article 982,

(2) Where it violates the marriage prohibition as provided in Article 983, or

(3) Where it violates the marriage prohibition as provided in Article 985. Except where bigamous parties get married in good faith and without negligence by relying on the dissolution of a prior marriage resulting from an agreement or an irrevocable judgment.

第 988-1 條(前婚姻視為消滅之效力、賠償及相關規定)

前條第三款但書之情形，前婚姻自後婚姻成立之日起視為消滅。

Article 988-1

In the circumstance pursuant to the third paragraph of the preceding provision, the previous marriage is dissolved on the

前婚姻視為消滅之效力，除法律另有規定外，準用離婚之效力。但剩餘財產已為分配或協議者，仍依原分配或協議定之，不得另行主張。

依第一項規定前婚姻視為消滅者，其剩餘財產差額之分配請求權，自請求權人知有剩餘財產之差額時起，二年間不行使而消滅。自撤銷兩願離婚登記或廢棄離婚判決確定時起，逾五年者，亦同。前婚姻依第一項規定視為消滅者，無過失之前婚配偶得向他方請求賠償。

前項情形，雖非財產上之損害，前婚配偶亦得請求賠償相當之金額。前項請求權，不得讓與或繼承。但已依契約承諾或已起訴者，不在此限。

第 989 條(結婚之撤銷(一) - 未達結婚年齡)

結婚違反第九百八十條之規定者，當事人或其法定代理人得向法院請求撤銷之。但當事人已達該條所定年齡或已懷胎者，不得請求撤銷。

第 990 條(結婚之撤銷(二) - 未得同意)

結婚違反第九百八十一條之規定者，法定代理人得向法院請求撤銷之。但自知悉其事實之日起，已逾六個月，或結婚後已逾一年，或已懷胎者，不得請求撤銷。

第 991 條(結婚之撤銷(三) - 有監護關係)

結婚違反第九百八十四條之規定者，受監護人或其最近親屬得向法院請求撤銷之。但結婚已逾一年者，不得請求撤銷。

date that the later marriage is formed.

The effect that the previous marriage is deemed as dissolved applies mutatis mutandis to the effect of divorce, unless otherwise provided for by law. However the remainder of the property is disposed of as distributed or agreed. No claim shall arise otherwise.

Where the previous marriage is deemed as dissolved pursuant to the first paragraph, the right to claim for distribution of the remainder [of the property] shall be extinguished if it is not exercised within two years from the time when the claimant has known that there is such a remainder [of the property], or if five years has elapsed from the revocation of divorce agreement or the reverse of the divorce judgment being finalized.

Where the previous marriage is deemed as dissolved pursuant to the first paragraph, the non-fault spouse in the previous marriage has the right to compensation against the other spouse. Under the condition provided in the preceding paragraph, the spouse in the previous marriage may claim equitable compensation for a non-pecuniary loss.

The claim provided in the preceding paragraph shall not be assigned to others or passed to heirs, except if it has been acknowledged by a contract or an action has been commenced.

Article 989

Where a marriage is concluded contrary to the provision of Article 980, the party concerned or his statutory agent may apply to the court for its annulment; but such application may not be made, where the party concerned has attained the age specified in the said article or where the woman has become pregnant.

Article 990

Where a marriage is concluded contrary to the provision of Article 981, the statutory agent may apply to the court for its annulment; but such application may not be made where six months have elapsed after the discovery of the fact or one year has elapsed after the conclusion of the marriage, or where the woman has become pregnant.

Article 991

Where a marriage is concluded contrary to the provision of Article 984, the ward or his nearest relative may apply to the court for its annulment; but such application may not be made where one year has elapsed after the conclusion of the marriage.

第 992 條

(刪除)

Article 992

(Repealed)

第 993 條

(刪除)

Article 993

(Repealed)

第 994 條

(刪除)

Article 994

(Repealed)

第 995 條(結婚之撤銷(六) - 不能人道)

當事人之一方，於結婚時不能人道而不能治者，他方得向法院請求撤銷之。

但自知悉其不能治之時起已逾三年者，不得請求撤銷。

Article 995

Where one spouse is sexually impotent at the time of marriage and such incapacity is incurable, the other party may apply to the court for the annulment of the marriage; but the applicant may not make such application after three years from the time of awareness of such incurability.

第 996 條(結婚之撤銷(七) - 精神不健全)

當事人之一方，於結婚時係在無意識或精神錯亂中者，得於常態回復後六個月內向法院請求撤銷之。

Article 996

Where, at the time of marriage, one spouse is in a condition of absence of discernment or mental disorder, such spouse may within six months after he is restored to normal condition apply to the court for the annulment of such marriage.

第 997 條(結婚之撤銷(八) - 因被詐欺或脅迫)

因被詐欺或被脅迫而結婚者，得於發見詐欺或脅迫終止後，六個月內向法院請求撤銷之。

Article 997

A person who has concluded a marriage by fraud or by duress may apply to the court for its annulment within six months after awareness of the fraud or after the cessation of the duress.

第 998 條(撤銷之不溯及效力)

結婚撤銷之效力，不溯及既往。

Article 998

The effect of an annulment of marriage is not retroactive.

第 999 條(婚姻無效或撤銷之損害賠償)

當事人之一方，因結婚無效或被撤銷而受有損害者，得向他方請求賠償。但他方無過失者，不在此限。

前項情形，雖非財產上之損害，受害人亦得請求賠償相當之金額，但以受害人無過失者為限。

前項請求權，不得讓與或繼承。但已依契約承諾或已起訴者，不在此限。

Article 999

A party to a marriage who has sustained damage through nullity or annulment of the marriage may claim compensation from the other party. This, however, does not apply where the other party is not at fault.

In the case mentioned in the preceding paragraph, the injured party who is not at fault may also claim an equitable compensation in money though there is no pecuniary loss.

The claim mentioned in the preceding paragraph is not transferable and does not pass to heirs, unless it has been acknowledged by contract or has involved litigation.

第 999-1 條(結婚無效或經撤銷準用規定)

第一千零五十七條及第一千零五十八條之規定，於結婚無效時準用

Article 999-1

The provisions in Article 1057 and Article 1058 shall be applicable mutatis mutandis to invalid marriage.

之。

第一千零五十五條、第一千零五十五條之一、第一千零五十五條之二、第一千零五十七條及第一千零五十八條之規定，於結婚經撤銷時準用之。

The provisions in Article 1055, Article 1055-1, Article 1055-2, Article 1057 and Article 1058 shall be applicable mutatis mutandis to annulled marriage.

第三節 婚姻之普通效力

Section 3 Efficacy of Marriage

第 1000 條(夫妻之冠姓)

夫妻各保有其本姓。但得書面約定以其本姓冠以配偶之姓，並向戶政機關登記。

冠姓之一方得隨時回復其本姓。但於同一婚姻關係存續中以一次為限。

Article 1000

The husband and the wife should keep his or her own surname. Unless one party shall prefix to his or her surname that of the spouse in writing at the household administration authority.

The party who prefixed to his or her surname that of the spouse shall return to his or her own surname. But only one time for change during the continuance of the marriage relationship.

第 1001 條(夫妻之同居義務)

夫妻互負同居之義務。但有不能同居之正當理由者，不在此限。

Article 1001

The husband and the wife are under mutual obligation to cohabit, unless for a good cause they cannot live together.

第 1002 條(夫妻之住所)

夫妻之住所，由雙方共同協議之；未為協議或協議不成時，得聲請法院定之。

法院為前項裁定前，以夫妻共同戶籍地推定為其住所。

Article 1002

The domicile of the husband and the wife shall be agreed by mutual agreement; if it has not been agreed or can not be agreed, it may depend on the court by application.

Before the ruling of the court, it will be presumed the common household domicile as the domicile of the husband and the wife.

第 1003 條(日常家務代理權)

夫妻於日常家務，互為代理人。

夫妻之一方濫用前項代理權時，他方得限制之。但不得對抗善意第三人。

Article 1003

In daily household matters, the husband and the wife act as agents for each other.

Where one of the parties abuses the aforesaid right of agency, the other party may restrict it, but such restriction cannot be set up against any bona fide third party.

第 1003-1 條(家庭生活費用之分擔方式)

家庭生活費用，除法律或契約另有約定外，由夫妻各依其經濟能力、家事勞動或其他情事分擔之。

因前項費用所生之債務，由夫妻負連帶責任。

Article 1003- 1

The payment for living expenses of the household will be shared by the husband and the wife according to each party's economical ability, household labor or other conditions unless otherwise provided for by law or mutual agreement.

The husband and the wife will be jointly liable for debts incurred by the expenses of the preceding paragraph.

第四節 夫妻財產制

Section 4 Matrimonial Property Regimes

第一款 通則

Subsection 1 GENERAL PROVISIONS

第 1004 條(夫妻財產制契約之訂

Article 1004

立 - 約定財產制之選擇)

夫妻得於結婚前或結婚後，以契約就本法所定之約定財產制中，選擇其一，為其夫妻財產制。

The husband and the wife may, before or after getting married, adopt by contract one of the contractual regimes provided by this Code as their matrimonial property regime.

第 1005 條(法定財產制之適用)

夫妻未以契約訂立夫妻財產制者，除本法另有規定外，以法定財產制，為其夫妻財產制。

Article 1005

Where the husband and the wife have not contracted the holding of matrimonial property, unless otherwise provided by this Code, the statutory regime shall be applied.

第 1006 條

(刪除)

Article 1006

(Repealed)

第 1007 條(夫妻財產制契約之要件 - 要式契約)

夫妻財產制契約之訂立、變更或廢止，應以書面為之。

Article 1007

The conclusion, modification or termination of a contract for the holding of matrimonial property must be done in writing.

第 1008 條(夫妻財產制契約之要件 - 契約之登記)

夫妻財產制契約之訂立、變更或廢止，非經登記，不得以之對抗第三人。

前項夫妻財產制契約之登記，不影響依其他法律所為財產權登記之效力。

第一項之登記，另以法律定之。

Article 1008

The conclusion, modification or termination of a contract for the holding of matrimonial property may not be a valid defense against any third party unless it has been registered.

Registration provided in the preceding paragraph will not affect any other registration of the property right according to the other law.

Registration provided in the first paragraph shall be regulated by a particular law.

第 1008-1 條(除夫妻財產制外，其他約定之方法)

前二條之規定，於有關夫妻財產之其他約定準用之。

Article 1008- 1

The provisions in the preceding two articles shall be applicable mutatis mutandis to other agreements pertaining to matrimonial property.

第 1009 條(分別財產制之原因(一) - 夫妻一方破產)

夫妻之一方受破產宣告時，其夫妻財產制，當然成為分別財產制。

Article 1009

Where either the husband or the wife is declared bankrupt, the separation of property regime shall be applied.

第 1010 條(分別財產制之原因 - 法院應夫妻一方之聲請而為宣告)

夫妻之一方有左列各款情形之一時，法院因他方之請求，得宣告改用分別財產制：

一、依法應給付家庭生活費用而不給付時。

二、夫或妻之財產不足清償其債務時。

Article 1010

Either the husband or the wife is in any of the following circumstances, the court may, at the instance of the other party, order the application of the separation of property regime:

(1) Where liable for the living expenses of the household but failed to provide such;

(2) Where either the husband or the wife is in a state of insolvent;

三、依法應得他方同意所為之財產處分，他方無正當理由拒絕同意時。

四、有管理權之一方對於共同財產之管理顯有不當，經他方請求改善而不改善時。

五、因不當減少其婚後財產，而對他方剩餘財產分配請求權有侵害之虞時。

六、有其他重大事由時。

夫妻之總財產不足清償總債務或夫妻難於維持共同生活，不同居已達六個月以上時，前項規定於夫妻均適用之。

(3) Where according to the law, the disposition of property requires the consent of the other party, but such consent is refused without a good cause;

(4) Where one party who is entitled to manage has obviously managed the common property improperly, and failed to make any improvement thereon by request of the other;

(5) Where one party improperly reduced his own property acquired in marriage and this may endanger the other's right to claim for distribution of the remainder [of the property];

(6) Where any other gross event has occurred.

Where the husband and the wife are both in a state of insolvent, or where they could hardly maintained their common living, and have not lived together for more than six months, provisions in the preceding paragraph will be applicable to both of them.

第 1011 條(分別財產制之原因(三) - 債權人之聲請)

債權人對於夫妻一方之財產已為扣押，而未得受清償時，法院因債權人之聲請，得宣告改用分別財產制。

Article 1011

Where a creditor could not be satisfied in the attachment of the property of either the husband or the wife, the court may, at the instance of the creditor, order the application of the separation of property regime.

第 1012 條(夫妻財產制之變更廢止)

夫妻於婚姻關係存續中，得以契約廢止其財產契約，或改用他種約定財產制。

Article 1012

During the continuance of the marriage, the husband and the wife may, by contract, terminate their contract for the holding of property, or adopt any other contractual regime.

第 1013 條
(刪除)

Article 1013
(Repealed)

第 1014 條
(刪除)

Article 1014
(Repealed)

第 1015 條
(刪除)

Article 1015
(Repealed)

第二款 法定財產制

Subsection 2 Statutory Regimes

第 1016 條
(刪除)

Article 1016
(Repealed)

第 1017 條(婚前財產與婚後財產)

Article 1017

夫或妻之財產分為婚前財產與婚後財產，由夫妻各自所有。不能證明為婚前或婚後財產者，推定為婚後財產；不能證明為夫或妻所有之財產，推定為夫妻共有。

The property of either the husband or the wife shall be divided into the property acquired before marriage and the property acquired in marriage, and shall be owned respectively. If the property could not be proven to be the property acquired before marriage or in marriage, it shall be presumed as the property acquired in marriage; if the property could not be proven to be owned by the husband or the wife, it shall be presumed as

夫或妻婚前財產，於婚姻關係存續中所生之孳息，視為婚後財產。

夫妻以契約訂立夫妻財產制後，於婚姻關係存續中改用法定財產制者，其改用前之財產視為婚前財產。

第 1018 條(各自管理財產)

夫或妻各自管理、使用、收益及處分其財產。

第 1018-1 條(自由處分生活費用外金錢)

夫妻於家庭生活費用外，得協議一定數額之金錢，供夫或妻自由處分。

第 1019 條

(刪除)

第 1020 條

(刪除)

第 1020-1 條(婚後剩餘財產之分配)

夫或妻於婚姻關係存續中就其婚後財產所為之無償行為，有害及法定財產制關係消滅後他方之剩餘財產分配請求權者，他方得聲請法院撤銷之。但為履行道德上義務所為之相當贈與，不在此限。

夫或妻於婚姻關係存續中就其婚後財產所為之有償行為，於行為時明知有損於法定財產制關係消滅後他方之剩餘財產分配請求權者，以受益人受益時亦知其情事者為限，他方得聲請法院撤銷之。

第 1020-2 條(婚後剩餘財產分配撤銷權之除斥期間)

前條撤銷權，自夫或妻之一方知有撤銷原因時起，六個月間不行使，或自行為時起經過一年而消滅。

owned by the husband and the wife jointly.

The remains of fruits gained from the property acquired either by the husband or the wife before marriage during the continuance of the marriage relationship shall be deemed as the property acquired in marriage.

If the husband and the wife have contracted the holding of matrimonial property, and then adopted the statutory regime, the property before the adoption shall be deemed as the property acquired before marriage.

Article 1018

The husband or the wife would manage, use, collect fruits from, and dispose his or her own property respectively.

Article 1018- 1

With the exception of the living expenses of the household, the husband and the wife may contract a certain amount of money paid by one for the other's free disposition.

Article 1019

(Repealed)

Article 1020

(Repealed)

Article 1020- 1

Where the husband or the wife's gratuitous act on his or her property acquired in marriage during the continuance of the marriage relationship endangers the other's right to claim for distribution of the remainder [of the property] upon the termination of the relationship over the statutory regime, the other may apply to the court for its annulment, except it was a proper gift for performing a moral obligation.

Where the husband or the wife's non-gratuitous act on his or her property acquired in marriage during the continuance of the marriage relationship endangers the other's right to claim for distribution of the remainder [of the property] upon the termination of the relationship over the statutory regime, the other may apply to the court for its annulment only if it was done with knowledge of the endangerment and the beneficiary knew this upon the receipt of the benefit as well.

Article 1020- 2

The claim for annulment provided in the preceding paragraph shall be extinguished if it is not exercised within six months from the time when the husband or the wife has known the

reason for annulment, or if one year has elapsed from the time when the act has been committed.

第 1021 條

(刪除)

Article 1021

(Repealed)

第 1022 條(婚後財產之報告義務)

夫妻就其婚後財產，互負報告之義務。

Article 1022

The husband or the wife is under an mutual obligation to inform the other of the condition of his or her property acquired in marriage.

第 1023 條(各自清償債務)

夫妻各自對其債務負清償之責。

夫妻之一方以自己財產清償他方之債務時，雖於婚姻關係存續中，亦得請求償還。

Article 1023

The husband or the wife is respectively liable for his or her own debts.

When the husband or the wife discharges the other's debts with his or her own property, even if it is during the continuance of the marriage relationship, he or she may claim for payback.

第 1024 條

(刪除)

Article 1024

(Repealed)

第 1025 條

(刪除)

Article 1025

(Repealed)

第 1026 條

(刪除)

Article 1026

(Repealed)

第 1027 條

(刪除)

Article 1027

(Repealed)

第 1028 條

(刪除)

Article 1028

(Repealed)

第 1029 條

(刪除)

Article 1029

(Repealed)

第 1030 條

(刪除)

Article 1030

(Repealed)

第 1030-1 條(法定財產制關係消滅剩餘財產之分配 除外規定及請求權行使之時效)

法定財產制關係消滅時，夫或妻現存之婚後財產，扣除婚姻關係存續所負債務後，如有剩餘，其雙方剩餘財產之差額，應平均分配。但下列財產不在此限：

一、因繼承或其他無償取得之財產。

Article 1030- 1

Upon dissolution of the statutory marital property regime, the remainder of the property acquired by the husband or wife in marriage, after deducting the debts incurred during the continuance of the marriage relationship, if any, shall be equally distributed to the husband and the wife, except property listed as follows:

(1) Property acquired from succession or as a gift

二、慰撫金。

依前項規定，平均分配顯失公平者，法院得調整或免除其分配額。

第一項剩餘財產差額之分配請求權，自請求權人知有剩餘財產之差額時起，二年間不行使而消滅。自法定財產制關係消滅時起，逾五年者，亦同。

第 1030-2 條(法定財產制關係消滅時債務之計算)

夫或妻之一方以其婚後財產清償其婚前所負債務，或以其婚前財產清償婚姻關係存續中所負債務，除已補償者外，於法定財產制關係消滅時，應分別納入現存之婚後財產或婚姻關係存續中所負債務計算。

夫或妻之一方以其前條第一項但書之財產清償婚姻關係存續中其所負債務者，適用前項之規定。

第 1030-3 條(法定財產制關係消滅時財產之追加計算)

夫或妻為減少他方對於剩餘財產之分配，而於法定財產制關係消滅前五年內處分其婚後財產者，應將該財產追加計算，視為現存之婚後財產。但為履道德上義務所為之相當贈與，不在此限。

前項情形，分配權利人於義務人不足清償其應得之分配額時，得就其不足額，對受領之第三人於其所受利益內請求返還。但受領為有償者，以顯不相當對價取得者為限。

前項對第三人之請求權，於知悉其分配權利受侵害時起二年間不行使而消滅。自法定財產制關係消滅時起，逾五年者，亦同。

(2) Solatium

The court shall adjust or waive the share of distribution provided that equal distribution referred to in the preceding paragraph is obviously unfair.

The right to claim for distribution or the reminder [of the property] referred to in the first paragraph shall be extinguished if it is not exercised within two years from the time where the claimant has known that there is such a remainder, or if five years have elapsed from the dissolution of the statutory marital property regime.

Article 1030- 2

If the husband or the wife discharged his or her debts incurred before marriage with his or her property acquired in marriage, or if discharged his or her debts incurred during the continuance of the marriage relationship with his or her property acquired before marriage, unless this property has been made up, it shall be counted into the remainder of the property acquired in marriage or the debts incurred during the continuance of the marriage relationship upon the termination of the relationship over the statutory regime.

If the husband or the wife discharged his or her debts with his or her property described as the exception in the first paragraph of the preceding article, the provisions provided in the preceding paragraph shall be applied.

Article 1030- 3

If the husband or the wife, in order to reduce the other's share of distribution of the remainder [of the property], disposed his or her property acquired in marriage within five years before the termination of the relationship over the statutory regime, this property shall be counted into, and deemed as the remainder of the property acquired in marriage, except the disposition was a proper gift for performing a moral obligation.

In the preceding paragraph, where one who is obligated to pay the share of distribution [of the remainder of the property] could not pay off those the other is entitled to receive, the one who is entitled to receive may claim to the third party for restituting the shortness of the share to the extent that the third party is benefited; however if the third party is not gratuitously benefited, the claim for restituting [the shortness of the share] may be made only if the third party is benefited from an obviously uneven payment.

The claim to the third party provided in the preceding paragraph shall be extinguished if it is not exercised within two years from the time when the claimant has known the infringement of distribution right [of the remainder of the property], or if it has

elapsed five years from the termination of the relationship over the statutory regime.

第 1030-4 條(婚後財產與追加計算財算之計價基準)

夫妻現存之婚後財產，其價值計算以法定財產制關係消滅時為準。但夫妻因判決而離婚者，以起訴時為準。

依前條應追加計算之婚後財產，其價值計算以處分時為準。

Article 1030- 4

The value of the remainder of the property by the husband or the wife acquired in marriage shall be counted at the termination of the relationship over the statutory regime; however if the relationship is terminated by a juridical decree of divorce, it shall be count at the commencement of the action.

The value of the property counted into the remainder of the property acquired in marriage referred to in the preceding article shall be counted at the time of the disposition.

第三款 約定財產制

Subsection 3 Contractual Regimes

第一目 共同財產制

Item 1 Community of Property

第 1031 條(共同財產之定義)

夫妻之財產及所得，除特有財產外，合併為共同財產，屬於夫妻共同共有。

Article 1031

With the exception of separate property, all the property and income of the husband and the wife constitute common property to be owned by them in common.

第 1031-1 條(特有財產之範圍及準用規定)

左列財產為特有財產：
一、專供夫或妻個人使用之物。
二、夫或妻職業上必需之物。

三、夫或妻所受之贈物，經贈與人以書面聲明為其特有財產者。
前項所定之特有財產，適用關於分別財產制之規定。

Article 1031- 1

The following constitutes the separate property:
(1) Articles which are exclusively intended for the personal use of the husband or the wife;
(2) Articles which are essential to the occupation of the husband or the wife;
(3) Gifts acquired by the husband or the wife which the donor has designated in writing to be the separate property.
The separate property provided in the preceding paragraph is governed by the provisions concerning the separation of property regime.

第 1032 條(共同財產之管理)

共同財產，由夫妻共同管理。但約定由一方管理者，從其約定。
共同財產之管理費用，由共同財產負擔。

Article 1032

The husband and the wife manage the common property jointly except it has been agreed by the party who is entitled to manage. The cost of management is borne out of the common property.

第 1033 條(共同財產之處分)

夫妻之一方，對於共同財產為處分時，應得他方之同意。
前項同意之欠缺，不得對抗第三人。但第三人已知或可得而知其欠缺，或依情形，可認為該財產屬於共同財產者，不在此限。

Article 1033

Either the husband or the wife must have the consent of the other for disposing of the common property. The absence of such consent cannot be set up against a third party, unless he knew or had the means of knowing its absence, or unless the property in question could have, under the circumstances, been regarded as part of the common property.

第 1034 條(結婚前或婚關係存續中債務之清償責任)

夫或妻結婚前或婚姻關係存續中所負之債務，應由共同財產，並各就其特有財產負清償責任。

Article 1034

Debts incurred by the husband or the wife before or during the continuance of the marriage relationship, should be chargeable to the common property and should be respectively liable to the extent of the separate property.

第 1035 條

(刪除)

Article 1035

(Repealed)

第 1036 條

(刪除)

Article 1036

(Repealed)

第 1037 條

(刪除)

Article 1037

(Repealed)

第 1038 條(共同財產制之補償請求權)

共同財產所負之債務，而以共同財產清償者，不生補償請求權。

共同財產之債務，而以特有財產清償，或特有財產之債務，而以共同財產清償者，有補償請求權，雖於婚姻關係存續中，亦得請求。

Article 1038

Debts payable out of the common property, where have been paid out of the common property, no claim for compensation will arise.

Debts payable out of the common property, where have been paid out of the separate property, or debts payable out of the separate property, where have been paid out of the common property, the claim for compensation shall arise and can be made even during the continuance of the marriage relationship.

第 1039 條(共同財產制之消滅(一) - 夫妻一方死亡)

夫妻之一方死亡時，共同財產之半數，歸屬於死亡者之繼承人，其他半數，歸屬於生存之他方。

前項財產之分劃，其數額另有約定者，從其約定。

第一項情形，如該生存之他方，依法不得為繼承人時，其對於共同財產得請求之數額，不得超過於離婚時所應得之數額。

Article 1039

Upon the death of one of the husband and the wife, half the common property shall pass to the heir of the deceased and the other half shall devolve on the surviving party.

In the case of the division of property mentioned in the preceding paragraph, where some other agreement exists as to the amounts, such agreement shall be followed.

In the case provided in the first paragraph, where the surviving party is by law unable to inherit, he may not claim a greater portion of the common property than he would get in the case of divorce.

第 1040 條(共有財產制之消滅時財產之取回)

共同財產制關係消滅時，除法律另有規定外，夫妻各取回其訂立共同財產制契約時之財產。

共同財產制關係存續中取得之共同財產，由夫妻各得其半數。但另有約定者，從其約定。

Article 1040

On the dissolution of the community of property regime, each of the husband and the wife gets back the property of contracting for the holding of matrimonial property, unless otherwise provided for by law.

The common property was caused during the continuance of the community of property regime, each of the husband and the wife acquires a half of the property, unless otherwise provided for by contract.

第 1041 條(勞力所得共同財產制)

夫妻得以契約訂定僅以勞力所得為限為共同財產。

前項勞力所得，指夫或妻於婚姻關係存續中取得之薪資、工資、紅利、獎金及其他與勞力所得有關之財產收入。勞力所得之孳息及代替利益，亦同。

不能證明為勞力所得或勞力所得以外財產者，推定為勞力所得。

夫或妻勞力所得以外之財產，適用關於分別財產制之規定。

第一千零三十四條、第一千零三十八條及第一千零四十條之規定，於第一項情形準用之。

第二目(刪除)**第 1042 條**

(刪除)

第 1043 條

(刪除)

第三目分別財產制**第 1044 條(分別財產制之意義)**

分別財產，夫妻各保有其財產之所有權，各自管理、使用、收益及處分。

第 1045 條

(刪除)

第 1046 條(分別財產制債務之清償)

分別財產制有關夫妻債務之清償，適用第一千零二十三條之規定。

第 1047 條

(刪除)

第 1048 條

(刪除)

Article 1041

The husband and the wife may agree by contract that the common property shall consist only of labor income.

Labor income as specified in the first paragraph comprises earnings from salary, wage, shares, bonus and the other related income acquired by the husband and the wife during the continuance of marriage relationship, as well as the interests and substitute profits of the labor income.

The property could not be proven as the labor income or the other property rather than labor income, will be presumed as labor income.

The property rather than the earnings of the husband or the wife is governed by the provisions concerning the separation of property regime.

The provisions in Article 1034, Article 1038 and Article 1040 shall be applicable mutatis mutandis to the first paragraph.

Item 2 (Repealed)**Article 1042**

(Repealed)

Article 1043

(Repealed)

Item 3 Separation of Property Regime**Article 1044**

In the separation of property regime, the husband and the wife each retains the ownership, and each party manages, uses, collects fruits from and disposes his or her own property respectively.

Article 1045

(Repealed)

Article 1046

The liability of debts incurred by the husband or the wife in the separation of property regime shall apply the provisions in Article 1023.

Article 1047

(Repealed)

Article 1048

(Repealed)

第五節 離婚

Section 5 Divorce

第 1049 條(兩願離婚)

夫妻兩願離婚者，得自行離婚。但未成年人，應得法定代理人之同意。

Article 1049

The husband and the wife may effect a divorce by themselves with their mutual consent; but in the case of a minor, the consent of his or her statutory agent must be obtained
[.]

第 1050 條(離婚之要式性)

兩願離婚，應以書面為之，有二人以上證人之簽名並應向戶政機關為離婚之登記。

Article 1050

Divorce by mutual consent shall be effected in writing which requires the signatures of at least two witnesses, and by the divorce registration at the household administration authority.

第 1051 條

(刪除)

Article 1051

(Repealed)

第 1052 條(裁判離婚之原因)

夫妻之一方，有下列情形之一者，他方得向法院請求離婚：

Article 1052

Where either the husband or the wife meets one of the following conditions, the other party may petition the court for a juridical decree of divorce:

- 一、重婚。
 - 二、與配偶以外之人合意性交。
 - 三、夫妻之一方對他方為不堪同居之虐待。
 - 四、夫妻之一方對他方之直系親屬為虐待，或夫妻一方之直系親屬對他方為虐待，致不堪為共同生活。
 - 五、夫妻之一方以惡意遺棄他方在繼續狀態中。
 - 六、夫妻之一方意圖殺害他方。
 - 七、有不治之惡疾。
 - 八、有重大不治之精神病。
 - 九、生死不明已逾三年。
 - 十、因故意犯罪，經判處有期徒刑逾六個月確定。
- 有前項以外之重大事由，難以維持婚姻者，夫妻之一方得請求離婚。但其事由應由夫妻之一方負責者，僅他方得請求離婚。

- (1) Where he or she has committed bigamy;
- (2) Where he or she has consensual sexual intercourse with another person;
- (3) Where he or she abuses the other party as to render common living intolerable;
- (4) Where he or she abuses the lineal relative of the other party, or his or her lineal relative abuses the other party as to render common living intolerable;
- (5) Where the other party has deserted him or her in bad faith and such desertion still continues;
- (6) Where he or she is intent on murdering the other party;
- (7) Where he or she has a loathsome disease which is incurable;
- (8) Where he or she has a serious mental disease which is incurable;
- (9) Where it has been uncertain for over three years whether he or she is alive or dead; or
- (10) Where he or she has been sentenced to more than six months imprisonment for an intentional crime.

Either the husband or the wife may petition for a juridical decree of divorce upon the occurrence of any gross event other than that set forth in the preceding paragraph that renders it difficult to maintain the marriage, except if either the husband or the wife is responsible for the event, only the other party may petition for the divorce.

第 1052-1 條(法院調解或和解離婚之效力)

離婚經法院調解或法院和解成立者，婚姻關係消滅。法院應依職權

Article 1052- 1

When a divorce through court mediation or court settlement is sustained, the marriage relationship is dissolved; and the court is

通知該管戶政機關。

required to notify the couple's household registration office.

第 1053 條(裁判離婚之限制(一))

對於前條第一款、第二款之情事，有請求權之一方，於事前同意或事後宥恕，或知悉後已逾六個月，或自其情事發生後已逾二年者，不得請求離婚。

Article 1053

In the cases specified in Subparagraphs 1 and 2 of the preceding article, the party who has the right to claim may not apply for a [juridical decree of] divorce, where he or she has previously consented to the event or has condoned it afterward or has known of it for over six months, or where two years have elapsed after the occurrence of the event.

第 1054 條(裁判離婚之限制(二))

對於第一千零五十二條第六款及第十款之情事，有請求權之一方，自知悉後已逾一年，或自其情事發生後已逾五年者，不得請求離婚。

Article 1054

In the cases specified in Subparagraphs 6 and 10 of Article 1052, the party who has the right to claim may not apply for a [juridical decree of] divorce, where one year has elapsed after he or she has known of the event or where five years have elapsed after the occurrence of the event.

第 1055 條(離婚未成年子女保護教養之權義及變更)

夫妻離婚者，對於未成年子女權利義務之行使或負擔，依協議由一方或雙方共同任之。未為協議或協議不成者，法院得依夫妻之一方、主管機關、社會福利機構或其他利害關係人之請求或依職權酌定之。前項協議不利於子女者，法院得依主管機關、社會福利機構或其他利害關係人之請求或依職權為子女之利益改定之。

Article 1055

After the husband and the wife effect a divorce, one party or both parties of the parents will exercise the rights or assume the duties in regard to the minor child by mutual agreement. If the mutual agreement did not or could not be done, the court may decide by the applications of the husband or the wife, the authorities concerned, the social welfare institution or any other interested person, or may decide by its authority. If the mutual agreement is unfavorable to the child, the court may change the agreement upon the applications of the authority concerned, the social welfare institution or any other interested person or by its authority in regard to the interests of the minor child.

行使、負擔權利義務之一方未盡保護教養之義務或對未成年子女有不利之情事者，他方、未成年子女、主管機關、社會福利機構或其他利害關係人得為子女之利益，請求法院改定之。

When the party who should but could not exercise the rights and assume the duties in regard to the minor child or did not protect the interests of the minor child, the other party of the husband and the wife, the minor child, the authorities concerned, the social welfare institution or any other interested person may apply the court to change the mutual agreement in regard to the interests of the minor child.

前三項情形，法院得依請求或依職權，為子女之利益酌定權利義務行使負擔之內容及方法。

The provisions in the preceding three paragraphs, the court may decide the contents and methods of exercising rights and assuming duties for the interests of the minor child on the application or by its authority.

法院得依請求或依職權，為未行使或負擔權利義務之一方酌定其與未成年子女會面交往之方式及期間。但其會面交往有妨害子女之利益者，法院得依請求或依職權變更之。

The court may decide the way and period of meeting or communication with the minor child by the application of the party who could exercise the rights and assume the duties in regard to the minor child, or by its authority. When the meeting or communication affects the interests of the minor child, the court may change it on the applications or by its authority..

第 1055-1 條(裁判離婚子女之監護)

Article 1055- 1

(一))

法院為前條裁判時，應依子女之最佳利益，審酌一切情狀，參考社工人員之訪視報告，尤應注意左列事項：

- 一、子女之年齡、性別、人數及健康情形。
- 二、子女之意願及人格發展之需要。
- 三、父母之年齡、職業、品行、健康情形、經濟能力及生活狀況。
- 四、父母保護教養子女之意願及態度。
- 五、父母子女間或未成年子女與其他共同生活之人間之感情狀況。

When the court makes the jurisdiction in the Article of 1055, it should be decide in accordance with the best interests of the minor child, consider all the conditions and the visiting reports of the social workers, especially check the following contents:

- (1) The age, sex, numbers and healthy condition of the minor child.
- (2) The willing of the minor child and the need of personality development.
- (3) The age, occupation, character, health condition, economical ability and the life style of the parents.
- (4) The parent's willing and attitude of protecting and educating the minor child.
- (5) The emotional feelings between the parents and the minor child or between the other persons living together and the minor child.

第 1055-2 條(裁判離婚子女之監護

(二))

父母均不適合行使權利時，法院應依子女之最佳利益並審酌前條各款事項，選定適當之人為子女之監護人，並指定監護之方法、命其父母負擔扶養費用及其方式。

Article 1055- 2

In the case of the parents, both parties not suitable for exercising are the rights of parents, the Court should appoint a guardian in the best interest of the minor child in accordance with the preceding articles, and appoint the methods of guardianship, order the parents to assume the duties for raising the minor child and the methods.

第 1056 條(損害賠償)

夫妻之一方，因判決離婚而受有損害者，得向有過失之他方，請求賠償。

前項情形，雖非財產上之損害，受害人亦得請求賠償相當之金額。但以受害人無過失者為限。

前項請求權，不得讓與或繼承。但已依契約承諾或已起訴者，不在此限。

Article 1056

Where one of the husband and the wife has suffered damage from a judicial decree of divorce, he or she may claim compensation from the other party at fault.

In the case provided in the preceding paragraph, the injured party may still claim an equitable compensation in money for a non-pecuniary loss, provided that he or she is not at fault.

The claim mentioned in the preceding paragraph shall not be assigned to others or be passed to heirs, unless it has been acknowledged by a contract or unless an action has been commenced.

第 1057 條(贍養費)

夫妻無過失之一方，因判決離婚而陷於生活困難者，他方縱無過失，亦應給與相當之贍養費。

Article 1057

Where the innocent party of the husband and the wife is reduced to difficulties in livelihood on account of a judicial decree of divorce, the other party, even if he or she is also innocent, shall pay an equitable alimony.

第 1058 條(財產之取回)

夫妻離婚時，除採用分別財產制者外，各自取回其結婚或變更夫妻財產制時之財產。如有剩餘，各依其夫妻財產制之規定分配之。

Article 1058

On divorce each of the husband and the wife recovers his or her own property whatever was at the time of getting married or changing the property regime, except when the separate property regime was applied. If there is any remainder [of the

property], it shall be allocated according to the provisions of their property regime.

第三章 父母子女

第 1059 條(子女之姓)

父母於子女出生登記前，應以書面約定子女從父姓或母姓。未約定或約定不成者，於戶政事務所抽籤決定之。

子女經出生登記後，於未成年前，得由父母以書面約定變更為父姓或母姓。

子女已成年者，得變更為父姓或母姓。

前二項之變更，各以一次為限。

有下列各款情形之一，法院得依父母之一方或子女之請求，為子女之利益，宣告變更子女之姓氏為父姓或母姓：

- 一、父母離婚者。
- 二、父母之一方或雙方死亡者。
- 三、父母之一方或雙方生死不明滿三年者。
- 四、父母之一方顯有未盡保護或教養義務之情事者。

第 1059-1 條(非婚生子女之姓)

非婚生子女從母姓。經生父認領者，適用前條第二項至第四項之規定。

非婚生子女經生父認領，而有下列各款情形之一，法院得依父母之一方或子女之請求，為子女之利益，宣告變更子女之姓氏為父姓或母姓：

- 一、父母之一方或雙方死亡者。
- 二、父母之一方或雙方生死不明滿三年者。
- 三、子女之姓氏與任權利義務行使或負擔之父或母不一致者。
- 四、父母之一方顯有未盡保護或教養義務之情事者。

CHAPTER III Parents and Children

Article 1059

Parents shall agree in writing before filing the child's birth registration regarding if the child assumes the father's or mother's surname.

After filing the child's birth registration and prior to the child reaching maturity, the parents can in writing change the child's surname to either the father's or mother's.

Where the child reached his/her maturity, he/she can change his/her surname to either the father's or mother's surname upon the parents' written agreement

Changing the surname pursuant to preceding two paragraphs can be done only once.

Where one of the following conditions is met and there is a fact showing that the child's surname has a negative impact on the child, either the parents or the child can petition for a judicial declaration to change the child's surname to either the father's or mother's surname:

- (1) Where the parents divorce;
- (2) Where one or both of parents are deceased;
- (3) Where one or both of parents life has been uncertain for three years; or
- (4) One of parents has not furnished his/her maintenance obligation for two years.

Article 1059- 1

A child born out of wedlock shall assume mother's surname. Paragraph two through four of the preceding article is applicable to a child born out of wedlock who is acknowledged by the natural father.

Where a child born out of wedlock who is acknowledged by the natural father meets one of the following conditions and the facts show that the child's surname has a negative impact on the child, one of the parents or the child can petition for a juridical declaration to change the child's surname to either the father's and mother's surname:

- (1) Where one or both of parents is deceased;
- (2) Where one or both of parent's life has been uncertain for three years;
- (3) Where a natural mother solely performs the rights and duties of the child born out of wedlock; or
- (4) One of parents has not furnished his/her maintenance obligation for two years.

第 1060 條(未成年子女之住所)

未成年之子女，以其父母之住所為住所。

Article 1060

The domicile of a minor child is that of the father and mother.

第 1061 條(婚生子女之定義)

稱婚生子女者，謂由婚姻關係受胎而生之子女。

Article 1061

A legitimate child is the child who is born with the conception during the marriage relationship.

第 1062 條(受胎期間)

從子女出生日回溯第一百八十一日起至第三百零二日止，為受胎期間。

能證明受胎回溯在前項第一百八十一日以前或第三百零二日以前者，以其期間為受胎期間。

Article 1062

The period of conception is the period determined from the one hundred and eighty-first day to the three hundred and second day, both inclusive, traced back from the day of the birth of a child.

Where it can be proved that conception took place within a period traced back within the one hundred and eighty-first day under the preceding paragraph or prior to the aforementioned three hundred and second day, such period is deemed to be the period of conception.

第 1063 條(婚生子女之推定及否認)

妻之受胎，係在婚姻關係存續中者，推定其所生子女為婚生子女。前項推定，夫妻之一方或子女能證明子女非為婚生子女者，得提起否認之訴。

前項否認之訴，夫妻之一方自知悉該子女非為婚生子女，或子女自知悉其非為婚生子女之時起二年內為之。但子女於未成年時知悉者，仍得於成年後二年內為之。

Article 1063

Where the wife conceives during the continuance of a marriage relationship, a child so born is presumed to be legitimate.

In regard to presumption of legitimacy provided in the preceding paragraph, either the husband, the wife, or the child may bring an action for disavowal if he or she can prove that the child was born out of wedlock.

A disavowal pursuant to preceding paragraph shall be effected within two years after one of spouses has the knowledge that the child was born out of wedlock or after the child has the knowledge that he/she was born out of wedlock, except that the child, who has the knowledge that he/she was born out of wedlock when he/she was a minor, can still file the disavowal within two years after he/she reaches maturity.

第 1064 條(準正)

非婚生子女，其生父與生母結婚者，視為婚生子女。

Article 1064

A child born out of wedlock whose natural father and mother have concluded a marriage to each other is deemed to be legitimate.

第 1065 條(認領之效力(一)及認領之擬制及非婚生子女與生母之關係)

非婚生子女經生父認領者，視為婚生子女。其經生父撫育者，視為認領。

非婚生子女與其生母之關係，視為婚生子女，無須認領。

Article 1065

A child born out of wedlock who has been acknowledge by the natural father is deemed to be legitimate; where he has been maintained by the natural father, acknowledgment is deemed to have been established.

In the relation to his mother, a child born out of wedlock is deemed to be legitimate and no acknowledgment is necessary.

第 1066 條(認領之否認)

Article 1066

非婚生子女或其生母，對於生父之認領，得否認之。

A child born out of wedlock or his mother may repudiate the acknowledgment by his natural father.

第 1067 條(認領之請求)

有事實足認其為非婚生子女之生父者，非婚生子女或其生母或其他法定代理人，得向生父提起認領之訴。

前項認領之訴，於生父死亡後，得向生父之繼承人為之。生父無繼承人者，得向社會福利主管機關為之。

Article 1067

Where there is a fact sufficient to prove that the person is the natural father of the child born out of wedlock, the child born out of wedlock, or the mother, or other statutory agent, may claim acknowledgement from the natural father.

The claim provided in the preceding paragraph can be filed after the death of the natural father against the father's successors or the social welfare authority if the natural father does not have successors

第 1068 條

(刪除)

Article 1068

(Repealed)

第 1069 條(認領之效力(二) - 溯及效力)

非婚生子女認領之效力，溯及於出生時。但第三人已得之權利，不因此而受影響。

Article 1069

The effect of legitimation of a child born out of wedlock is retroactive as from the time of birth, but the existing rights of the third parties will not be affected thereby.

第 1069-1 條(認領非婚生未成年子女權義之準用規定)

非婚生子女經認領者，關於未成年子女權利義務之行使或負擔，準用第一千零五十五條、第一千零五十五條之一及第一千零五十五條之二之規定。

Article 1069- 1

The child born out of wedlock have been claimed acknowledgement from his natural father, the provisions in Article 1055, Article 1050-1, and Article 1055-2 shall be applicable mutatis mutandis to the rights and duties of the minor child.

第 1070 條(認領之效力(三) - 絕對效力)

生父認領非婚生子女後，不得撤銷其認領。但有事實足認其非生父者，不在此限。

Article 1070

When the natural father has acknowledged a child born out of wedlock, such acknowledgment shall not be revoked, except where the facts prove that the person is not the natural father.

第 1071 條

(刪除)

Article 1071

(Repealed)

第 1072 條(收養之定義)

收養他人之子女為子女時，其收養者為養父或養母，被收養者為養子或養女。

Article 1072

Where a person adopts the child of another as his own child, the adopter is called the adoptive father or adoptive mother and the person adopted is called the adopted son or adopted daughter.

第 1073 條(收養要件 - 年齡)

收養者之年齡，應長於被收養者二十歲以上。但夫妻共同收養時，夫妻之一方長於被收養者二十歲以上，而他方僅長於被收養者十六歲

Article 1073

The adopter shall be at least twenty years older than the person to be adopted; except when the husband and wife co-adopt and either of the husband or wife is twenty years older than the person to be adopted and the other sixteen years or older than

以上，亦得收養。
夫妻之一方收養他方之子女時，應長於被收養者十六歲以上。

the person to be adopted, the person can be adopted.
When either the husband or wife adopts the child of the other spouse, the adopter shall be at least sixteen years older than the person to be adopted.

第 1073-1 條(不得收養為養子女之親屬)

下列親屬不得收養為養子女：
一、直系血親。
二、直系姻親。但夫妻之一方，收養他方之子女者，不在此限。
三、旁系血親在六親等以內及旁系姻親在五親等以內，輩分不相當者。

Article 1073- 1

None of the following relatives may be adopted as an adopted child:
(1) Lineal relatives by blood;
(2) Lineal relatives by marriage, except adoption of the other party's child by either the husband or the wife; or
(3) Collateral relatives by blood or marriage of a different rank, except where the former is within the sixth degree of relationship and the latter is within the fifth degree of relationship.

第 1074 條(夫妻應為共同收養)

夫妻收養子女時，應共同為之。但有下列各款情形之一者，得單獨收養：
一、夫妻之一方收養他方之子女。
二、夫妻之一方不能為意思表示或生死不明已逾三年。

Article 1074

When the husband and the wife are to adopt a child, they shall do so jointly, except where one of the following conditions is met:
(1) Where he or she adopts the other party's child; or
(2) One of the parties cannot make and accept the declaration of intention or his/her life has been uncertain for three years.

第 1075 條(同時為二人養子女之禁止)

除夫妻共同收養外，一人不得同時為二人之養子女。

Article 1075

Except when being adopted by a husband and wife, a person shall not be simultaneously adopted by two persons.

第 1076 條(被收養人配偶之同意)

夫妻之一方被收養時，應得他方之同意。但他方不能為意思表示或生死不明已逾三年者，不在此限。

Article 1076

Where either the husband or the wife is adopting a child, the consent of the other party shall be obtained; except when the party cannot make and accept the declaration of intention or his/her life has been uncertain for three years.

第 1076-1 條(子女被收養應得父母之同意)

子女被收養時，應得其父母之同意。但有下列各款情形之一者，不在此限：
一、父母之一方或雙方對子女未盡保護教養義務或有其他顯然不利子女之情事而拒絕同意。
二、父母之一方或雙方事實上不能為意思表示。
前項同意應作成書面並經公證。但已向法院聲請收養認可者，得以言詞向法院表示並記明筆錄代之。

Article 1076- 1

When the child is adopted, the consent of the parents shall be obtained; except when one of the following conditions is met:
(1) Where one or both of the parents, who shall but can not exercise the rights and assume the duties in regard to the child or did not protect the interests of the child, refuses to consent; or
(2) Where one or both of the parents in fact cannot make the declaration of intention and accept the declaration of intention.
The consent provided in the preceding paragraph shall be in writing and notarized, except where the person who petitions for the judicial declaration of the adoption can orally express the consent to the court and the consent shall be recorded in the

第一項之同意，不得附條件或期限。

court record.

The consent provided in paragraph one cannot attach with a condition or duration.

第 1076-2 條(未滿七歲及滿七歲之被收養者應得其法定代理人之同意)

被收養者未滿七歲時，應由其法定代理人代為並代受意思表示。
滿七歲以上之未成年人被收養時，應得其法定代理人之同意。
被收養者之父母已依前二項規定以法定代理人之身分代為並代受意思表示或為同意時，得免依前條規定為同意。

Article 1076- 2

A minor of younger than seven years of age shall make the declaration of intention and accept the declaration of intention through his/her statutory agent when he/she is to be adopted.

A minor older than seven years of age shall obtain the consent of his/her statutory agent when he is to be adopted.

The parents of the child to be adopted who have made and accepted the declaration of intention, or consent pursuant to the preceding two paragraphs on behalf of the child as a statutory agent, are able to waive the formality of providing consent pursuant to the preceding provision.

第 1077 條(收養之效力(一) - 養父母子女之關係)

養子女與養父母及其親屬間之關係，除法律另有規定外，與婚生子女同。

養子女與本生父母及其親屬間之權利義務，於收養關係存續中停止之。但夫妻之一方收養他方之子女時，他方與其子女之權利義務，不因收養而受影響。

收養者收養子女後，與養子女之本生父或母結婚時，養子女回復與本生父或母及其親屬間之權利義務。但第三人已取得之權利，不受影響。

養子女於收養認可時已有直系血親卑親屬者，收養之效力僅及於其未成年且未結婚之直系血親卑親屬。但收養認可前，其已成年或已結婚之直系血親卑親屬表示同意者，不在此限。

前項同意，準用第一千零七十六條之一第二項及第三項之規定。

Article 1077

The relationship between an adopted child and his adoptive parents and their relatives is the same as that between a legitimate child with his parents, unless otherwise provided by law.

The rights and duties between an adopted child and his/her natural parents and their relatives is suspended during the period of adoption, except where one party of the husband and the wife adopts the other party's child, the other party's rights and duties to the child is not affected by the adoption.

After adopting the child, if the adopter marries the adoptee's natural father or mother, the adoptive child resumes his/her rights and duties to natural parents; except the right obtained by the third party is not affected.

Where the adoptive child has lineal relatives by blood at the time of adoption, the effect of the adoption is limited to his/her minor and non-married lineal relatives by blood; except where before the adoption, the adult or married lineal relatives by blood consents.

Consent provided by the preceding paragraph applies mutatis mutandis to the second and third paragraphs of Article 1076-1.

第 1078 條(收養之效力(二) - 養子女之姓氏)

養子女從收養者之姓或維持原來之姓。

夫妻共同收養子女時，於收養登記前，應以書面約定養子女從養父姓、養母姓或維持原來之姓。

Article 1078

An adopted child assumes the surname of the adopter or will maintain original surname.

Where the husband and the wife co-adopt a child, before the registration of the adoption, both parties shall agree in writing regarding if the adopted child should assume the adoptive father

第一千零五十九條第二項至第五項之規定，於收養之情形準用之。

or adoptive mother's surname or maintain the original surname. The second and fifth paragraphs of Article 1059 apply mutatis mutandis to the adoption.

第 1079 條(收養之方法)

收養應以書面為之，並向法院聲請認可。
收養有無效、得撤銷之原因或違反其他法律規定者，法院應不予認可。

Article 1079

Adoption shall be effected in writing and petitioned for the court's approval. The court shall not approve the adoption where the adoption is based on a ground that it is void, may be annulled, or violates other laws.

第 1079-1 條

法院為未成年人被收養之認可時，應依養子女最佳利益為之。

Article 1079- 1

The court shall approve the adoption of the minor based upon the best interest of the adoptive child.

第 1079-2 條

被收養者為成年人而有下列各款情形之一者，法院應不予收養之認可：
一、意圖以收養免除法定義務。
二、依其情形，足認收養於其本生父母不利。
三、有其他重大事由，足認違反收養目的。

Article 1079- 2

Where an adult is to be adopted, the court shall not approve the adoption if one of the following conditions is met:
(1) By performing the adoption there is an intent to waive legal duties;
(2) The adoption is proved to be unfavorable to the child's natural parents; or
(3) Other grave reasons that are against the purpose of the adoption.

第 1079-3 條(收養之生效時點)

收養自法院認可裁定確定時，溯及於收養契約成立時發生效力。但第三人已取得之權利，不受影響。

Article 1079- 3

The effect of the adoption is retroactive as from the time that the court's admission was finalized to the time when the contract of adoption was formed. Except, where the rights obtained by the third party are not affected.

第 1079-4 條(收養之無效)

收養子女，違反第一千零七十三條、第一千零七十三條之一、第一千零七十五條、第一千零七十六條之一、第一千零七十六條之二第一項或第一千零七十九條第一項之規定者，無效。

Article 1079- 4

The adoption is void if it violates Article 1073, Article 1073-1, Article 1075, Article 1076-1, paragraph one of Article 1076-2, or paragraph one of Article 1079.

第 1079-5 條(收養之撤銷及其行使期間)

收養子女，違反第一千零七十四條之規定者，收養者之配偶得請求法院撤銷之。但自知悉其事實之日起，已逾六個月，或自法院認可之日起已逾一年者，不得請求撤銷。
收養子女，違反第一千零七十六條或第一千零七十六條之二第二項之規定者，被收養者之配偶或法定

Article 1079- 5

The adoption is void if it violates Article 1073, Article 1073-1, Article 1075, Article 1076-1, paragraph one of Article 1076-2, or paragraph one of Article 1079.

代理人得請求法院撤銷之。但自知悉其事實之日起，已逾六個月，或自法院認可之日起已逾一年者，不得請求撤銷。

依前二項之規定，經法院判決撤銷收養者，準用第一千零八十二條及第一千零八十三條之規定。

第 1080 條(收養之終止(一) - 合意終止)

養父母與養子女之關係，得由雙方合意終止之。

前項終止，應以書面為之。養子女為未成人者，並應向法院聲請認可。

法院依前項規定為認可時，應依養子女最佳利益為之。

養子女為未成人者，終止收養自法院認可裁定確定時發生效力。

養子女未滿七歲者，其終止收養關係之意思表示，由收養終止後為其法定代理人之人為之。

養子女為滿七歲以上之未成人者，其終止收養關係，應得收養終止後為其法定代理人之人之同意。

夫妻共同收養子女者，其合意終止收養應共同為之。但有下列情形之一者，得單獨終止：

一、夫妻之一方不能為意思表示或生死不明已逾三年。

二、夫妻之一方於收養後死亡。

三、夫妻離婚。

夫妻之一方依前項但書規定單獨終止收養者，其效力不及於他方。

第 1080-1 條(收養之終止(二) - 聲請法院許可)

養父母死亡後，養子女得聲請法院許可終止收養。

養子女未滿七歲者，由收養終止後為其法定代理人之人向法院聲請許可。

Article 1080

The relationship between an adopted child and his adoptive parents may be terminated by mutual agreement of the parties.

The termination provided in the preceding paragraph shall be made in writing. Where the adoptive child is a minor, the termination shall be petitioned to the court.

The court's approval of the adoption under the preceding paragraph must be based on the best interest of the child.

Where the adoptive child is a minor, termination of the adoption is effective at the time when the court's approval of the termination is finalized.

If the adopted child is younger than seven years old, the intention to terminate the adoptive relationship shall be declared on his behalf by the person who will be his statutory agent after the termination of the adoption.

If the adopted child is a minor of more than seven years old, the termination of the adoptive relationship shall be subject to consent of the person who will be the child's statutory agent after the termination of the adoption.

Where the husband and wife co-adopt a child, termination of adoption shall be done jointly. However the termination can be done independently if one of the following conditions is met:

(1) Either party, the husband or the wife, cannot make and accept the declaration of intention or his/her life has been uncertain for three years;

(2) Either party, the husband or the wife, is deceased after the adoption; or

(3) The husband and wife are divorced.

Where one party, either the husband or wife, terminates the adoption pursuant to the preceding paragraph, the effect of the termination does not extend to the other party.

Article 1080- 1

After the death of the adopted parents, the adopted child may petition the court for approval to terminate the adoption.

If the adopted child is younger than seven years old, the petition to terminate the adoption shall be declared on his behalf by the person who will be his statutory agent after the termination of adoption.

養子女為滿七歲以上之未成人者，其終止收養之聲請，應得收養終止後為其法定代理人之人之同意。

法院認終止收養顯失公平者，得不許可之。

If the adopted child is a minor older than seven years old, the petition for termination of adoption shall be subject to the consent of the person who will be the child's statutory agent after the termination of adoption.

The court shall not approve the termination of adoption if the court determines that the termination is obviously unfair.

第 1080-2 條(收養之終止(三) - 無效)

終止收養，違反第一千零八十條第二項、第五項或第一千零八十條之一第二項規定者，無效。

Article 1080- 2

The termination of adoption is void, if it violates the second and the fifth paragraphs of Article 1080-2, or the second paragraph of Article 1080-1.

第 1080-3 條(收養之終止(四) - 撤銷)

終止收養，違反第一千零八十條第七項之規定者，終止收養者之配偶得請求法院撤銷之。但自知悉其事實之日起，已逾六個月，或自法院認可之日起已逾一年者，不得請求撤銷。

終止收養，違反第一千零八十條第六項或第一千零八十條之一第三項之規定者，終止收養後被收養者之法定代理人得請求法院撤銷之。但自知悉其事實之日起，已逾六個月，或自法院許可之日起已逾一年者，不得請求撤銷。

Article 1080- 3

第 1081 條(收養之終止(五) - 判決終止)

養父母、養子女之一方，有下列各款情形之一者，法院得依他方、主管機關或利害關係人之請求，宣告終止其收養關係：

- 一、對於他方為虐待或重大侮辱。
- 二、遺棄他方。
- 三、因故意犯罪，受二年有期徒刑以上之刑之裁判確定而未受緩刑宣告。

四、有其他重大事由難以維持收養關係。

養子女為未成人者，法院宣告終止收養關係時，應依養子女最佳利益為之。

Article 1081

Where either party, the adoptive parents or the adoptive child, meets one of the following conditions, the court can terminate the adoption based on the petition of the other party, administrative authority or interested person:

- (1) Where the party has abused and grossly insulted the other party;
- (2) Where the party abandoned the other party;
- (3) Where the party committed a crime intentionally and is sentenced to more than two years imprisonment without probation; or
- (4) Where there is other grave reason that makes it hard to maintain the adoption relationship.

Where the adoptive child is a minor, the court shall terminate the adoption based upon the best interest of the adoptive child.

第 1082 條(終止之效果(一) - 給與金額之請求)

Article 1082

Where the adoptive relationship has been terminated by the

因收養關係終止而生活陷於困難者，得請求他方給與相當之金額。但其請求顯失公平者，得減輕或免除之。

judgment, and the innocent party is thereby reduced to difficulties in livelihood, he may demand payment of an equitable sum of money from the other party.

第 1083 條(終止之效果(二) - 復姓)

養子女及收養效力所及之直系血親卑親屬，自收養關係終止時起，回復其本姓，並回復其與本生父母及其親屬間之權利義務。但第三人已取得之權利，不受影響。

Article 1083

From the time of the termination of the adoption, the adoptive child and his or her lineal relative by blood who is affected by the adoption shall resume use of his or her surname, and the rights and duties to his or her natural parents and relatives. However, the rights obtained by the third party are not affected.

第 1083-1 條(準用規定)

法院依第一千零五十九條第五項、第一千零五十九條之一第二項、第一千零七十八條第三項、第一千零七十九條之一、第一千零八十條第三項或第一千零八十一條第二項規定為裁判時，準用第一千零五十五條之一之規定。

Article 1083- 1

The court may apply mutatis mutandis to the Article 1055-1 when the court rules pursuant to the fifth paragraph of Article 1059, the second paragraph of Article 1059-1, the third paragraph of Article 1078, the Article 1079-1, the third paragraph of Article 1080 or the second paragraph of Article 1081.

第 1084 條(親權(一) - 孝親、保護及教養)

子女應孝敬父母。
父母對於未成年之子女，有保護及教養之權利義務。

Article 1084

Children shall be filial to and respect their parents.
Parents have the rights and the duties to protect, educate and maintain their minor children.

第 1085 條(親權(二) - 懲戒)

父母得於必要範圍內懲戒其子女。

Article 1085

Parents may, within the limit of necessity, inflict punishment upon their children.

第 1086 條(親權(三) - 代理)

父母為其未成年子女之法定代理人。
父母之行為與未成年子女之利益相反，依法不得代理時，法院得依父母、未成年子女、主管機關、社會福利機構或其他利害關係人之聲請或依職權，為子女選任特別代理人。

Article 1086

Parents are the statutory agents of their minor children.

Where the parents have a conflict of interest with their minor children and therefore cannot be the statutory agents to the children under the law, the court can appoint a special agent based upon its discretion or the petition of parents, minor children, administrative authority, social welfare institution, or other interested person.

第 1087 條(子女之特有財產)

未成年子女，因繼承、贈與或其他無償取得之財產，為其特有財產。

Article 1087

Property which accrues to the minor children by inheritance, gift or other gratuitous title constitutes their separate property.

第 1088 條(親權(四) - 子女特有財產之管理)

未成年子女之特有財產，由父母共

Article 1088

The separate property of a minor child shall be managed by the

同管理。

父母對於未成年子女之特有財產，有使用、收益之權。但非為子女之利益，不得處分之。

parents jointly.

The parents have the right to use, and to collect fruits from the separate property of the minor child, but they may not dispose of it except for the interests of the child.

第 1089 條(裁判未成年子女權義之行使及變更)

對於未成年子女之權利義務，除法律另有規定外，由父母共同行使或負擔之。父母之一方不能行使權利時，由他方行使之。父母不能共同負擔義務時，由有能力者負擔之。

父母對於未成年子女重大事項權利之行使意思不一致時，得請求法院依子女之最佳利益酌定之。

法院為前項裁判前，應聽取未成年子女、主管機關或社會福利機構之意見。

Article 1089

The parents shall jointly exercise their rights and assume their duties in regard to their minor child, unless otherwise provided by law. If one of them can not exercise such rights, the rights shall be exercised by the other party. If the parents can not assume the duties jointly, the duties shall be assumed by the parent who has the ability to do so.

If there is inconsistency between the parents in the exercise of the rights in regard to the grave events of the minor child, they may apply to the court for the decision in accordance with the best interests of the child.

Before the decision of the preceding paragraph, the court shall give the minor child, the authorities concerned, or the social welfare institution a hearing.

第 1089-1 條(未成年子女權義之行使或負擔準用規定)

父母不繼續共同生活達六個月以上時，關於未成年子女權利義務之行使或負擔，準用第一千零五十五條、第一千零五十五條之一及第一千零五十五條之二之規定。但父母有不能同居之正當理由或法律另有規定者，不在此限。

Article 1089-1

Where the parents do not continue their cohabitation for more than six months, exercise of the rights or assumption of duties to the minor applies mutatis mutandis to the Article 1055, Article 1055-1 and Article 1055-2.

第 1090 條(親權濫用之禁止)

父母之一方濫用其對於子女之權利時，法院得依他方、未成年子女、主管機關、社會福利機構或其他利害關係人之請求或依職權，為子女之利益，宣告停止其權利之全部或一部。

Article 1090

Where one of the parents has abused his or her rights over their children, the court can suspend all or part of his or her rights to the children based upon its discretion or petition of the other party, minor children, administrative authority, social welfare institution or other interested person.

第四章 監護

CHAPTER IV Guardianship

第一節 未成年人之監護

Section 1 Guardianship over Minors

第 1091 條(監護人之設置)

未成年人無父母，或父母均不能行使、負擔對於其未成年子女之權利、義務時，應置監護人。但未成年人已結婚者，不在此限。

Article 1091

A guardian shall be appointed for a minor when he has no parent or when both the parents can not exercise the rights nor assume the duties in regard to the minor child. But this does not apply where the minor has been married.

第 1092 條(委託監護人)

父母對其未成年之子女，得因特定事項，於一定期限內，以書面委託他人行使監護之職務。

第 1093 條(遺囑指定監護人)

最後行使、負擔對於未成年子女之權利、義務之父或母，得以遺囑指定監護人。

前項遺囑指定之監護人，應於知悉其為監護人後十五日內，將姓名、住所報告法院；其遺囑未指定會同開具財產清冊之人者，並應申請當地直轄市、縣(市)政府指派人員會同開具財產清冊。

於前項期限內，監護人未向法院報告者，視為拒絕就職。

第 1094 條(法定監護人)

父母均不能行使、負擔對於未成年子女之權利義務或父母死亡而無遺囑指定監護人，或遺囑指定之監護人拒絕就職時，依下列順序定其監護人：

- 一、與未成年人同居之祖父母。
- 二、與未成年人同居之兄姊。

三、不與未成年人同居之祖父母。
前項監護人，應於知悉其為監護人後十五日內，將姓名、住所報告法院，並應申請當地直轄市、縣(市)政府指派人員會同開具財產清冊。

未能依第一項之順序定其監護人時，法院得依未成年子女、四親等內之親屬、檢察官、主管機關或其他利害關係人之聲請，為未成年子女之最佳利益，就其三親等旁系血親尊親屬、主管機關、社會福利機構或其他適當之人選定為監護人，並得指定監護之方法。

法院依前項選定監護人或依第一千一百零六條及第一千一百零六條之一另行選定或改定監護人時，應同時指定會同開具財產清冊之人。

未成年人無第一項之監護人，於法

Article 1092

In regard to a minor child, parents may authorize, in a written form, another person to perform the function of a guardian for specific matters and within a fixed period.

Article 1093

The parent who exercises and takes rights and responsibilities to the minor may appoint a guardian by will.

The guardian, appointed by the preceding paragraph, within 15 days after knowing being appointed as a guardian, shall report his/her name and residence to the court; he/she shall also apply for members, appointed by local government, in order to draw up an inventory of the ward's property with those members.

If the guardian does not report to the court within the said periods, he/she is deemed to waive his/her rights.

Article 1094

Where both parents cannot exercise the rights nor assume the duties in regard to a minor child, or where the parents die without appointing any guardian by a will, or the appointed guardian refuses to be sworn in, the following shall be determined as the guardian in order

- (1) Grandparents living in the same household with the minor;
- (2) Elder brothers or sisters living in the same household with the minor;
- (3) Grandparents not living in the same household with the minor;

Guardian, within 15 days after knowing being appointed as a guardian, shall report his/her name and residence to the court; he/she shall also apply for members, appointed by local government, in order to draw up an inventory of the ward's property with those members.

If the guardian could not be determined under paragraph 1, the court may, upon the application of the minor child, any relative within the fourth degree of kinship, the public prosecutor, competent authority, or the other interested person, for the best interests of the minor child, appoint or replace the child's elder collateral relative by blood within the third degree of relationship, competent authority, the social welfare institution, or any other proper person as the guardian, and order the way and manner of guardianship.

The court shall also appoint members for drawing up an inventory of the ward's property when appointing guardians under preceding paragraph or appointing/changing guardians under provisions of Article 1106 and Article 1106-1.

In the absence of the guardian provided in the first paragraph, and before the appointment according to paragraph 3 of the

院依第三項為其選定確定前，由當地社會福利主管機關為其監護人。

provision being decided by the court, the local authorities of social welfare concerned shall be the guardian of the minor.

第 1094-1 條(法院選定或改定監護人應注意事項)

法院選定或改定監護人時，應依受監護人之最佳利益，審酌一切情狀，尤應注意下列事項：

- 一、受監護人之年齡、性別、意願、健康情形及人格發展需要。
- 二、監護人之年齡、職業、品行、意願、態度、健康情形、經濟能力、生活狀況及有無犯罪前科紀錄。
- 三、監護人與受監護人間或受監護人與其他共同生活之人間之情感及利害關係。
- 四、法人為監護人時，其事業之種類與內容，法人及其代表人與受監護人之利害關係。

Article 1094- 1

When electing or changing guardians, for the best interest of the ward, the court shall take everything into consideration; the following things shall be paid attention to

- (1) the ward's age, sex, willingness, health, and the need of developing the ward's personality.
- (2) the guardian's age, employment, personality, willingness, attitude, health, finance, and criminal records.
- (3) relations between the guardian and the ward or relations between the ward and others living in the same household.
- (4) when a juristic person is the guardian, the category and content of its business; and relations between the juristic person and its representative and the ward.

第 1095 條(監護人之辭職)

監護人有正當理由，經法院許可者，得辭任其職務。

Article 1095

If the guardian has good causes, with the court's permission, he/she may dismiss his/her duty.

第 1096 條(監護人資格之限制)

有下列情形之一者，不得為監護人：

- 一、未成年。
- 二、受監護或輔助宣告尚未撤銷。
- 三、受破產宣告尚未復權。
- 四、失蹤。

Article 1096

The following persons shall not act as guardians

- (1) minors.
- (2) persons who are subjects to the commencement of guardianship or assistantship and have not yet revoked those orders.
- (3) persons who declare bankrupt and have not yet resume their rights.
- (4) absent persons.

第 1097 條(監護人之職務)

除另有規定外，監護人於保護、增進受監護人利益之範圍內，行使、負擔父母對於未成年子女之權利、義務。但由父母暫時委託者，以所委託之職務為限。

Article 1097

Unless it is otherwise provided, a guardian shall, within the limits required for the protection and advancement of the ward's interests, exercise the rights and assume the duties of the parents in regard to a minor child. Where the guardianship is only provisionally authorized by the parents, the function of the guardian shall be limited to those so authorized.

監護人有數人，對於受監護人重大事項權利之行使意思不一致時，得聲請法院依受監護人之最佳利益，酌定由其中一監護人行使之。法院為前項裁判前，應聽取受監護人、主管機關或社會福利機構之意見。

When there are disagreements, regarding the ward's serious rights, among several guardians, the court may designate one guardian to enforce rights.

The court may take opinions from the ward, competent authority or organization of social welfare when making preceding decision.

第 1098 條(監護人之法定代理權)

監護人於監護權限內，為受監護人之法定代理人。

監護人之行為與受監護人之利益相反或依法不得代理時，法院得因監護人、受監護人、主管機關、社會福利機構或其他利害關係人之聲請或依職權，為受監護人選任特別代理人。

第 1099 條(監護人對受監護人財產之權義(一) - 開具財產清冊)

監護開始時，監護人對於受監護人之財產，應依規定會同遺囑指定、當地直轄市、縣(市)政府指派或法院指定之人，於二個月內開具財產清冊，並陳報法院。

前項期間，法院得依監護人之聲請，於必要時延長之。

第 1099-1 條(監護人對受監護人之財產僅得為管理上必要行為)

於前條之財產清冊開具完成並陳報法院前，監護人對於受監護人之財產，僅得為管理上必要之行為。

第 1100 條(監護人對受監護人財產之權義(二) - 管理權及注意義務)

監護人應以善良管理人之注意，執行監護職務。

第 1101 條(監護人對受監護人財產之權義(三) - 限制)

監護人對於受監護人之財產，非為受監護人之利益，不得使用、代為或同意處分。

監護人為下列行為，非經法院許可，不生效力：

一、代理受監護人購置或處分不動產。

二、代理受監護人，就供其居住之建築物或其基地出租、供他人使用或終止租賃。

監護人不得以受監護人之財產為投資。但購買公債、國庫券、中央銀行儲蓄券、金融債券、可轉讓定期存單、金融機構承兌匯票或保證

Article 1098

A guardian within the scope of his/her delegated power is the statutory agent of his ward.

Where the guardian has a conflict of interest with his/her ward or he/she cannot be the statutory agent to the ward under the law, the court can appoint a special agent based upon its discretion or the petition of the guardian, the ward, competent authority, organization of social welfare, or other interested persons.

Article 1099

On the commencement of guardianship, the guardian shall, in collaboration with the person designated by the will, local government, or the court, draw up an inventory of the ward's property within two months and shall also report to the court.

The court may extend periods when the guardian applies for extension.

Article 1099- 1

The guardian may only do what is necessary for the management of the property being guarded before the completion of the inventory of the ward's property and also before reporting to the court.

Article 1100

The guardian shall exercise guardianship with the care of a good administrator.

Article 1101

The guardian shall not use or dispose of the ward's property except for the interests of the ward.

When the guardian does the following act, he/she shall acquire permission from the court; otherwise the act will not be effective.

(1) purchasing or disposing real property for the ward.

(2) renting out or providing others to use the ward's living building or its base, or terminating lease of the ward's living building or its base. The guardian shall not take the ward's property for investment with the exception of purchasing state bond, treasury bills (TB), Central Bank's saving fund, financial debt, negotiable certificates of deposit (NCD), banker's acceptances (BA), or guaranteed-commercial paper (CP).

商業本票，不在此限。

第 1102 條(監護人對受監護人財產之權義(四) - 受讓之禁止)

監護人不得受讓受監護人之財產。

Article 1102

A guardian shall not acquire the property from his ward.

第 1103 條(監護人對受監護人財產之權義(五) - 財產狀況之報告)

受監護人之財產，由監護人管理。執行監護職務之必要費用，由受監護人之財產負擔。

法院於必要時，得命監護人提出監護事務之報告、財產清冊或結算書，檢查監護事務或受監護人之財產狀況。

Article 1103

The ward's property is managed by the guardian. All necessary payment for enforcing guardianship is paid by the ward's assets.

The court, if necessary, may ask the guardian provide reports regarding guardianship, inventory of properties, in order to check guardianship or the ward's assets.

第 1103-1 條
(刪除)

Article 1103- 1
(Deleted)

第 1104 條(監護人之報酬請求權)

監護人得請求報酬，其數額由法院按其勞力及受監護人之資力酌定之。

Article 1104

A guardian may claim for compensation; the court determines the amount of compensation based on the labor involved and the assets of the ward.

第 1105 條
(刪除)

Article 1105
(Deleted)

第 1106 條(監護人之撤退)

監護人有下列情形之一，且受監護人無第一千零九十四條第一項之監護人者，法院得依受監護人、第一千零九十四條第三項聲請權人之聲請或依職權，另行選定適當之監護人：

- 一、死亡。
- 二、經法院許可辭任。
- 三、有第一千零九十六條各款情形之一。

法院另行選定監護人確定前，由當地社會福利主管機關為其監護人。

Article 1106

When the guardian has any of the following circumstances and the ward has no guardian under paragraph 1 of Article 1094, the court may elects other proper guardian for the ward by its authority or upon the application of the ward or at the request of the applicant set forth in paragraph 3 of Article 1094

- (1) death.
- (2) with the court's permission.
- (3) any of the circumstances set forth in Article 1096.

Before the court elects a guardian, competent authority of local social welfare is the guardian of the ward.

第 1106-1 條(改定監護人之聲請)

有事實足認監護人不符受監護人之最佳利益，或有顯不適任之情事者，法院得依前條第一項聲請權人之聲請，改定適當之監護人，不受第一千零九十四條第一項規定之限制。

法院於改定監護人確定前，得先行宣告停止原監護人之監護權，並由

Article 1106- 1

If there is enough fact which indicates that the guardian does not act for the best interest of the ward, or other reasons indicate that the guardian should not be the guardian, the court may order guardianship to other proper person based on application made by applicant of paragraph 1 of preceding Article; and limitations set in paragraph 1 of Article 1094 do not apply.

當地社會福利主管機關為其監護人。

第 1107 條(監護終止時受監護人財產之清算) Article 1107

監護人變更時，原監護人應即將受監護人之財產移交於新監護人。

受監護之原因消滅時，原監護人應即將受監護人之財產交還於受監護人；如受監護人死亡時，交還於其繼承人。

前二項情形，原監護人應於監護關係終止時起二個月內，為受監護人財產之結算，作成結算書，送交新監護人、受監護人或其繼承人。

新監護人、受監護人或其繼承人對於前項結算書未為承認前，原監護人不得免其責任。

When guardianship has changed, the guardian shall hand over the ward's property to the new guardian.

When the cause of guardianship ceases to exist, the guardian shall return the ward's property to the ward; where the ward has deceased, the guardian shall hand over the ward's property to his/her heirs.

Under preceding two paragraphs, the guardian shall make statement of account for the ward's property within two months from the termination of the guardianship and deliver the statement to the new guardian, the ward, or the ward's heirs. The guardian may not be discharged from his/her duties until the new guardian, the ward, or the ward's heirs approve his/her statement of account.

第 1108 條(清算義務之繼承) Article 1108

監護人死亡時，前條移交及結算，由其繼承人為之；其無繼承人或繼承人有無不明者，由新監護人逕行辦理結算，連同依第一千零九十九條規定開具之財產清冊陳報法院。

On the death of the guardian, the aforesaid account in the preceding article shall be rendered by his/her heirs; if no heirs or heirs are unknown, the new guardian takes over the work, he shall report to the court along with an inventory of the ward's property.

第 1109 條(監護人賠償責任之短期時效) Article 1109

監護人於執行監護職務時，因故意或過失，致生損害於受監護人者，應負賠償之責。

前項賠償請求權，自監護關係消滅之日起，五年間不行使而消滅；如有新監護人者，其期間自新監護人就職之日起算。

If the guardian, intentionally or negligently, has caused damage to the ward when performing his duties, the guardian shall compensate the ward any injury arising therefrom.

A claim for damages, based on preceding paragraph, shall be extinguished if not exercised within five years from the date the guardianship is revoked; if there is a new guardian, the period begins from the date the new guardian starts his/her guardianship.

第 1109-1 條(監護事件依職權囑託戶政機關登記) Article 1109- 1

法院於選定監護人、許可監護人辭任及另行選定或改定監護人時，應依職權囑託該管戶政機關登記。

The court shall inform the Household Administration Bureau for registration when electing guardians, allowing guardians' dismiss, and re-electing or changing guardians.

第 1109-2 條(未成年人受監護宣告之適用規定) Article 1109- 2

未成年人依第十四條受監護之宣告者，適用本章第二節成年人監護之規定。

If a minor is the subject to the commencement of guardianship based on Article 14, rules set forth in section 2 of this Chapter regarding adult guardianship apply to the minor as well.

第二節 成年人之監護及輔助**Section 2 Guardianship and Assistantship over Adults****第 1110 條(監護人之設置)**

受監護宣告之人應置監護人。

Article 1110

A person who has become subject to the order of commencement of guardianship shall be appointed to a guardian.

第 1111 條(監護人之順序及選定)

法院為監護之宣告時，應依職權就配偶、四親等內之親屬、最近一年有同居事實之其他親屬、主管機關、社會福利機構或其他適當之人選定一人或數人為監護人，並同時指定會同開具財產清冊之人。

法院為前項選定及指定前，得命主管機關或社會福利機構進行訪視，提出調查報告及建議。監護之聲請人或利害關係人亦得提出相關資料或證據，供法院斟酌。

Article 1111

When ordering commencement of guardianship, the court shall elect one or more guardians among spouse, any relative within the fourth degree of kinship, relative resides together in recent year, competent authority, organization of social welfare or other proper person; and the court shall also appoint persons for drawing up an inventory of the ward's property.

When selecting guardians based on preceding paragraph, the court may ask competent authority or organization of social welfare provide visiting report and suggestion. Applicants of guardianship or interested persons may also provide the court related information or evidence.

第 1111-1 條(選定監護人之注意事項)

法院選定監護人時，應依受監護宣告之人之最佳利益，優先考量受監護宣告之人之意見，審酌一切情狀，並注意下列事項：

- 一、受監護宣告之人之身心狀態與生活及財產狀況。
- 二、受監護宣告之人與其配偶、子女或其他共同生活之人間之情感狀況。
- 三、監護人之職業、經歷、意見及其與受監護宣告之人之利害關係。
- 四、法人為監護人時，其事業之種類與內容，法人及其代表人與受監護宣告之人之利害關係。

Article 1111- 1

When electing guardians, for the best interest of the ward, the court shall first take the ward's opinion and every other things into consideration; the following things shall be paid attention to

- (1) the ward's physical and spiritual health, his/her life and finance.
- (2) relations between the ward and his/her spouse, children, and others living in the same household.
- (3) occupation, experience, opinion of the guardian and relations between the guardian and the ward.
- (4) when a juristic person is the guardian, the category and content of its business; and relations between the juristic person and its representative and the ward.

第 1111-2 條(監護人之資格限制)

照護受監護宣告之人之法人或機構及其代表人、負責人，或與該法人或機構有僱傭、委任或其他類似關係之人，不得為該受監護宣告之人之監護人。

Article 1111- 2

Juristic person, institution, or its representative, responsible person, or persons who have a contract of hire of services, mandate or other similar relations with the juristic person or institution shall not be the guardian of the ward.

第 1112 條(監護人之職務)

監護人於執行有關受監護人之生活、護養療治及財產管理之職務時，應尊重受監護人之意思，並考量其身心狀態與生活狀況。

Article 1112

When enforcing guardianship relating the ward's life, treatment, and financial management, the guardian shall respect the ward's intent.

第 1112-1 條(成年監護之監護人為數人時執行監護職務之方式)

法院選定數人為監護人時，得依職權指定其共同或分別執行職務之範圍。

法院得因監護人、受監護人、第十四條第一項聲請權人之聲請，撤銷或變更前項之指定。

Article 1112- 1

When selecting several persons as guardians, the court may designate guardians enforce their rights jointly or separately.

The court may revoke or change designation when guardians, the ward, applicants under paragraph 1 of Article 14 apply for a change.

第 1112-2 條(監護事件依職權囑託戶政機關登記)

法院為監護之宣告、撤銷監護之宣告、選定監護人、許可監護人辭任及另行選定或改定監護人時，應依職權囑託該管戶政機關登記。

Article 1112- 2

The court shall inform the Household Administration Bureau for registration when ordering the commencement of guardianship, revoking guardianship, selecting guardians, allowing guardians' dismiss, and re-electing or changing guardians.

第 1113 條(未成年人監護規定之準用)

成年人之監護，除本節有規定者外，準用關於未成年人監護之規定。

Article 1113

Unless otherwise provided by the provisions of this Section, the provisions concerning the guardianship over minors shall apply mutatis mutandis to the guardianship over adults.

第 1113-1 條(輔助人之設置)

受輔助宣告之人，應置輔助人。輔助人及有關輔助之職務，準用第一千零九十五條、第一千零九十六條、第一千零九十八條第二項、第一千一百條、第一千一百零二條、第一千一百零三條第二項、第一千一百零四條、第一千一百零六條、第一千一百零六條之一、第一千一百零九條、第一千一百十一條至第一千一百十一條之二、第一千一百十二條之一及第一千一百十二條之二之規定。

Article 1113- 1

An assistant shall be appointed to a person who has become subject to the order of commencement of assistance.

Assistant and his/her related duties shall apply mutatis mutandis to Articles 1095, 1096, 1098(2), 1100, 1102, 1103(2), 1104, 1106, 1106-1, 1109, 1111, 1111-1, 1111-2, 1112-1, and 1112-2.

第五章 扶養

CHAPTER V Maintenance

第 1114 條(互負扶養義務之親屬)

左列親屬，互負扶養之義務：

- 一、直系血親相互間。
- 二、夫妻之一方與他方之父母同居者，其相互間。
- 三、兄弟姊妹相互間。
- 四、家長家屬相互間。

Article 1114

The following relatives are under a mutual obligation to maintain one another:

- (1) Lineal relatives by blood;
- (2) One of the husband and the wife and the parents of the other party living in the same household;
- (3) Brothers and sisters;
- (4) The head and the members of a house.

第 1115 條(扶養義務人之順序)

負扶養義務者有數人時，應依左列順序定其履行義務之人：

- 一、直系血親卑親屬。
- 二、直系血親尊親屬。
- 三、家長。
- 四、兄弟姊妹。
- 五、家屬。
- 六、子婦、女婿。
- 七、夫妻之父母。

同係直系尊親屬或直系卑親屬者，以親等近者為先。

負扶養義務者有數人而其親等同一時，應各依其經濟能力，分擔義務。

第 1116 條(扶養權利人之順序)

受扶養權利者有數人，而負扶養義務者之經濟能力，不足扶養其全體時，依左列順序定其受扶養之人：

- 一、直系血親尊親屬。
- 二、直系血親卑親屬。
- 三、家屬。
- 四、兄弟姊妹。
- 五、家長。
- 六、夫妻之父母。
- 七、子婦、女婿。

同係直系尊親屬或直系卑親屬者，以親等近者為先。

受扶養權利者有數人而其親等同一時，應按其需要之狀況，酌為扶養。

第 1116-1 條(夫妻與其他人扶養權利義務之順位)

夫妻互負扶養之義務，其負扶養義務之順序與直系血親卑親屬同，其受扶養權利之順序與直系血親尊親屬同。

第 1116-2 條(結婚經撤銷或離婚子女之扶養義務)

父母對於未成年子女之扶養義務，不因結婚經撤銷或離婚而受影

Article 1115

In case there are several persons bound to furnish maintenance, the order in which they are to perform such obligation is as follows:

- (1) Younger lineal relatives by blood;
- (2) Elder lineal relatives by blood;
- (3) Head of the house;
- (4) Brothers and sisters;
- (5) Members of the house;
- (6) Daughter-in-law and son-in-law;
- (7) Parents of either the husband or the wife.

Among the elder lineal relatives by blood or younger lineal relatives by blood, the person nearest in degree of relationship will be the first.

If there are several persons bound to furnish maintenance and of the same degree of relationship, such obligation shall be borne by them according to their respective economic ability.

Article 1116

In case there are several persons entitled to maintenance, and the economic ability of the person bound to furnish maintenance is not sufficient to maintain all of them, the person to receive maintenance shall be determined in the following order:

- (1) Elder lineal relatives by blood;
- (2) Younger lineal relatives by blood;
- (3) Members of the house;
- (4) Brothers and sisters;
- (5) Head of the house;
- (6) Parents of either the husband or the wife;
- (7) Daughter-in-law and son-in-law.

Among elder lineal relatives by blood or younger lineal relatives by blood, the person nearest in degree of relationship will be the first.

Where there are several persons entitled to maintenance and of the same degree of relationship, each shall receive maintenance according to their respective needs.

Article 1116- 1

The husband and the wife are under a mutual obligation to maintain each other, the order in which they are to perform such obligation is the same with the younger lineal relatives by blood, and the order in which they are entitled to receive maintenance is the same with the elder lineal relatives by blood.

Article 1116- 2

The obligation of the parents to maintain their minor child shall not be affected by the annulment of the marriage or the divorce.

響。

第 1117 條(受扶養之要件)

受扶養權利者，以不能維持生活而無謀生能力者為限。

前項無謀生能力之限制，於直系血親尊親屬，不適用之。

第 1118 條(扶養義務之免除)

因負擔扶養義務而不能維持自己生活者，免除其義務。但受扶養權利者為直系血親尊親屬或配偶時，減輕其義務。

第 1118-1 條(減輕或免除扶養義務之情形)

受扶養權利者有下列情形之一，由負扶養義務者負擔扶養義務顯失公平，負扶養義務者得請求法院減輕其扶養義務：

- 一、對負扶養義務者、其配偶或直系血親故意為虐待、重大侮辱或其他身體、精神上之不法侵害行為。
- 二、對負扶養義務者無正當理由未盡扶養義務。

受扶養權利者對負扶養義務者有前項各款行為之一，且情節重大者，法院得免除其扶養義務。

前二項規定，受扶養權利者為負扶養義務者之未成年直系血親卑親屬者，不適用之。

第 1119 條(扶養程度)

扶養之程度，應按受扶養權利者之需要與負扶養義務者之經濟能力及身分定之。

第 1120 條(扶養方法之決定)

扶養之方法，由當事人協議定之；不能協議時，由親屬會議定之。但扶養費之給付，當事人不能協議時，由法院定之。

第 1121 條(扶養程度及方法之變更)

Article 1117

Persons entitled to maintenance shall be limited to those who can not support the living and are unable to earn the living.

The limitation in respect of inability to earn a living in the preceding paragraph shall not apply to the case of the elder lineal relatives by blood.

Article 1118

If a person who can no longer support his own living if he assumes the obligation of furnishing maintenance to another, he may be exempted from such an obligation, but his obligation could only be relieved if the person entitled to receive maintenance is the elder lineal relatives by blood or the spouse.

Article 1119

The extent of furnishing maintenance shall be determined according to the needs of the person entitled to maintenance, and the economic ability and social status of the person bound to furnish it.

Article 1120

The manner of furnishing maintenance shall be determined by mutual agreement between the parties, or if they can not come to agreement, by the family council. Except if the parties do not mutually agree upon the amount of the maintenance payment, the court shall determine the amount.

Article 1121

Either party may demand an alteration in the extent and the

扶養之程度及方法，當事人得因情事之變更，請求變更之。

manner of furnishing maintenance on the ground of change of circumstances.

第六章 家

CHAPTER VI House

第 1122 條(家之定義)

稱家者，謂以永久共同生活為目的而同居之親屬團體。

Article 1122

A house is a community of relatives who live in the same household with the object of maintaining the common living permanently.

第 1123 條(家長與家屬)

家置家長。
同家之人，除家長外，均為家屬。

Article 1123

Each house shall institute a head.
Persons belong to the same house are, except the head of the house, the members of the house.
Persons who are not relatives but who live in the same household with the object of maintaining the common living permanently are deemed to be the members of the house.

雖非親屬，而以永久共同生活為目的的同居一家者，視為家屬。

第 1124 條(家長之選定)

家長由親屬團體中推定之；無推定時，以家中之最尊輩者為之；尊輩同者，以年長者為之；最尊或最長者不能或不願管理家務時，由其指定家屬一人代理之。

Article 1124

The head of a house shall be elected from among the community of the relatives. If there is no such election, the headship shall fall on the person who is the highest in rank [of relationship]; or where the ranks are equal, on the person who is senior in age. Where the person who is the highest in rank [of relationship] or senior in age is unable or unwilling to manage the house affairs, he shall designate a member of the house to act for him.

第 1125 條(家務之管理)

家務由家長管理。但家長得以家務之一部，委託家屬處理。

Article 1125

The affairs of a house shall be managed by the head of the house, but he may entrust a part of its affairs to be looked after by the members of the house.

第 1126 條(管理家務之注意義務)

家長管理家務，應注意於家屬全體之利益。

Article 1126

In the management of house affairs, the head of the house shall take care of the interests of all the members of the house.

第 1127 條(家屬之分攤(一) - 請求分離)

家屬已成年或雖未成年而已結婚者，得請求由家分離。

Article 1127

A member of a house who has reached majority, or, though a minor, has been married, may demand to be separated from the house.

第 1128 條(家屬之分攤(二) - 命令分離)

家長對於已成年或雖未成年而已結婚之家屬，得令其由家分離。但以有正當理由時為限。

Article 1128

The head of a house may order a member of the house who has reached majority or though a minor, has been married to be separated from the house, provided that he has a good cause for

doing so.

第七章 親屬會議

CHAPTER VII Family Council

第 1129 條(召集人)

依本法之規定應開親屬會議時，由當事人、法定代理人或其他利害關係人召集之。

Article 1129

Where a meeting of the family council shall be held in accordance with the provisions of this Code, it shall be convened by the party concerned or his statutory agent or other interested persons.

第 1130 條(親屬會議組織)

親屬會議，以會員五人組織之。

Article 1130

A family council shall be composed of five members.

第 1131 條(親屬會議會員之選定順序)

親屬會議會員，應就未成年人、受監護宣告之人或被繼承人之下列親屬與順序定之：

- 一、直系血親尊親屬。
- 二、三親等內旁系血親尊親屬。
- 三、四親等內之同輩血親。

前項同一順序之人，以親等近者為先；親等同者，以同居親屬為先，無同居親屬者，以年長者為先。

依前二項順序所定之親屬會議會員，不能出席會議或難於出席時，由次順序之親屬充任之。

Article 1131

Members of a family council shall be selected from among the following relatives of the minor, or of a person who is subject to the order of the commencement of guardianship, or of the deceased person, and in the following order:

- (1) Elder lineal relatives by blood;
- (2) Elder collateral relatives by blood within the third degree of relationship;
- (3) Relatives by blood of the equal rank within the fourth degree of relationship.

Among the persons who are in the same order of the preceding paragraph, the person nearest in degree of relationship will be the first; and among those of the same degree of relationship, the person living in the same household will be the first, or the person senior in age will be the first in the absence of relative living in the same household.

A member of family council as determined according to the preceding two paragraphs who can not or has difficulty to be present at the meeting shall be substituted by the relative of the next order.

第 1132 條(指定會員)

無前條規定之親屬，或親屬不足法定人數時，法院得因有召集權人之聲請，於其他親屬中指定之。

親屬會議不能召開或召開有困難時，依法應經親屬會議處理之事項，由有召集權人聲請法院處理之。親屬會議經召開而不為或不能決議時，亦同。

Article 1132

In case there are no such relatives as provided in the preceding article, or where such relatives are not enough to constitute the statutory number, the court may, on the application of the person who has the right to convene such meeting, designate a person from among other relatives.

In the event that it is impossible or there is difficulty to convene the meeting of family council, the person who has the right to convene such meeting shall apply to the court for disposition of affairs which, according to law, shall be managed by the family council. The same rule shall apply where no resolution has been adopted or the holding of such meeting failed though the meeting of family council has convened.

第 1133 條(會員資格之限制)

監護人、未成年人及受監護宣告之人，不得為親屬會議會員。

Article 1133

Guardians, minors and persons who are subject to the order of the commencement of guardianship shall not act as members of a family council.

第 1134 條(會員辭職之限制)

依法應為親屬會議會員之人，非有正當理由，不得辭其職務。

Article 1134

Persons who are called upon to act as members of a family council in conformity with law, shall not decline or resign the office without a good cause.

第 1135 條(會議之召開及決議)

親屬會議，非有三人以上之出席，不得開會；非有出席會員過半數之同意，不得為決議。

Article 1135

A family council shall not hold a session without at least three members being present and shall not pass a resolution without the consent of the majority of those present.

第 1136 條(決議之限制)

親屬會議會員，於所議事件有個人利害關係者，不得加入決議。

Article 1136

Where a member of the family council has personal interests in the matter discussed, he shall not participate in passing the resolution.

第 1137 條(不服決議之聲訴)

第一千一百二十九條所定有召集權之人，對於親屬會議之決議有不服者，得於三個月內向法院聲訴。

Article 1137

Where the person who has the right under Article 1129 to convene a meeting of the family council refuses to obey any of its resolutions, he may complain to the court within three months.

第五編 繼承**Part V Succession****第一章 遺產繼承人****CHAPTER I HEIRS TO PROPERTY****第 1138 條(法定繼承人及其順序)**

遺產繼承人，除配偶外，依左列順序定之：

- 一、直系血親卑親屬。
- 二、父母。
- 三、兄弟姊妹。
- 四、祖父母。

Article 1138

Heirs to property other than the spouse come in the following order:

- (1) Lineal descendants by blood;
- (2) Parents;
- (3) Brothers and sisters;
- (4) Grandparents.

第 1139 條(第一順序繼承人之決定)

前條所定第一順序之繼承人，以親等近者為先。

Article 1139

Among persons of the first order provided in the preceding Article, the person nearest in degree of relationship comes first as the heir.

第 1140 條(代位繼承)

第一千一百三十八條所定第一順序之繼承人，有於繼承開始前死亡

Article 1140

Where an heir of the first order provided in Article 1138 has died or lost the right to inheritance before the opening of the

或喪失繼承權者，由其直系血親卑親屬代位繼承其應繼分。

succession, his lineal descendants shall inherit his entitled portion in his place.

第 1141 條(同順序繼承人之應繼分)

同一順序之繼承人有數人時，按人數平均繼承。但法律另有規定者，不在此限。

Article 1141

Where there are several heirs of the same order, they inherit equal shares as per capita, unless it is otherwise provided by law.

第 1142 條 (刪除)

Article 1142 (Repealed)

第 1143 條 (刪除)

Article 1143 (Repealed)

第 1144 條(配偶之應繼分)

配偶有相互繼承遺產之權，其應繼分，依左列各款定之：

一、與第一千一百三十八條所定第一順序之繼承人同為繼承時，其應繼分與他繼承人平均。

二、與第一千一百三十八條所定第二順序或第三順序之繼承人同為繼承時，其應繼分為遺產二分之一。

三、與第一千一百三十八條所定第四順序之繼承人同為繼承時，其應繼分為遺產三分之二。

四、無第一千一百三十八條所定第一順序至第四順序之繼承人時，其應繼分為遺產全部。

Article 1144

Each spouse has the right to inherit the property of the other, and his or her entitled portion is determined according to the following Subparagraphs:

(1) Where the spouse inherits concurrently with heirs of the first order, as provided in Article 1138, his or her entitled portion is equal to the other heirs;

(2) Where the spouse inherits concurrently with heirs of the second or third order as provided in Article 1138, his or her entitled portion is one-half of the inheritance;

(3) Where the spouse inherits concurrently with heirs of the fourth order as provided in Article 1138, his or her entitled portion is two-thirds of the inheritance;

(4) Where there is no heir of any of the four orders provided in Article 1138, his or her entitled portion is the entirety of the inheritance.

第 1145 條(繼承權喪失之事由)

有左列各款情事之一者，喪失其繼承權：

一、故意致被繼承人或應繼承人於死或雖未致死因而受刑之宣告者。

二、以詐欺或脅迫使被繼承人為關於繼承之遺囑，或使其撤回或變更之者。

三、以詐欺或脅迫妨害被繼承人為關於繼承之遺囑，或妨害其撤回或變更之者。

四、偽造、變造、隱匿或湮滅被繼承人關於繼承之遺囑者。

五、對於被繼承人有重大之虐待或侮辱情事，經被繼承人表示其不得繼承者。

前項第二款至第四款之規定，如經

Article 1145

A person shall forfeit his right to inherit in any of the following events:

(1) Where he has been sentenced to criminal penalty for having intentionally caused or attempted the death of the deceased or of a person entitled to inherit;

(2) Where he has, by fraud or by duress, induced the deceased to make, withdraw or alter a will relating to inheritance;

(3) Where he has, by fraud or by duress, prevented the deceased from making, withdrawing or altering a will relating to inheritance;

(4) Where he has forged, altered, concealed or destroyed the deceased's will relating to inheritance;

(5) Where he seriously ill-treated or insulted the deceased and has been forbidden to inherit by the deceased.

If, in the cases provided by Subparagraphs 2 to 4 of the preceding Paragraph, the deceased has forgiven the offender, his

被繼承人有怨者，其繼承權不喪失。

第 1146 條(繼承回復請求權)

繼承權被侵害者，被害人或其法定代理人得請求回復之。

前項回復請求權，自知悉被侵害之時起，二年間不行使而消滅；自繼承開始時起逾十年者亦同。

right to inherit is reassumed.

Article 1146

Where the right to inherit has been infringed upon, the injured party or his statutory agent may claim its restitution.

The right to claim as provided in the preceding Paragraph is extinguished if not exercised within two years from the date of knowing such infringement. The same rule applies where ten years have elapsed from the time of the opening of the succession.

第二章 遺產之繼承

CHAPTER II SUCCESSION TO PROPERTY

第一節 效力

Section 1 EFFECTS

第 1147 條(繼承之開始)

繼承，因被繼承人死亡而開始。

Article 1147

Succession opens with the death of the deceased.

第 1148 條(限定繼承之有限責任)

繼承人自繼承開始時，除本法另有規定外，承受被繼承人財產上之一切權利、義務。但權利、義務專屬於被繼承人本身者，不在此限。

繼承人對於被繼承人之債務，以因繼承所得遺產為限，負清償責任。

Article 1148

Unless it is otherwise provided for in this Code, an heir assumes all the rights and obligations pertaining to the estate of the decedent at the time of the commencement of the succession, except those rights and obligations which exclusively belong to the decedent.

An heir's obligations to the debts of the decedent are limited to the extent of the property acquired from the estate.

第 1148-1 條(財產贈與視同所得遺產之計算期限)

繼承人在繼承開始前二年內，從被繼承人受有財產之贈與者，該財產視為其所得遺產。

前項財產如已移轉或滅失，其價額，依贈與時之價值計算。

Article 1148- 1

If an heir receives gifts in property (assets) from the decedent within two years prior to the opening of succession, the assets shall be deemed as estate.

If property mentioned in the preceding paragraph is transferred or lose, the value of the property in question shall be calculated as when it was given.

第 1149 條(遺產酌給請求權)

被繼承人生前繼續扶養之人，應由親屬會議依其所受扶養之程度及其他關係，酌給遺產。

Article 1149

A person who had been financially provided by the deceased before the latter's death shall be allocated a certain portion of the deceased's property by the family council, taking into consideration the extent of maintenance he used to receive and other relationships with the deceased.

第 1150 條(繼承費用之支付)

關於遺產管理、分割及執行遺囑之費用，由遺產中支付之。但因繼承人之過失而支付者，不在此限。

Article 1150

Expenses relating to the management and partition of the deceased's property and the execution of the will are to be paid out of that property except those that have been incurred by the faults of the heir.

第 1151 條(遺產之共同共有)

繼承人有數人時，在分割遺產前，各繼承人對於遺產全部為共同共有。

Article 1151

Where there are several heirs, the whole of the deceased's property is, before its partition, owned in common by the heirs.

第 1152 條(共同共有遺產之管理)

前條共同共有之遺產，得由繼承人中互推一人管理之。

Article 1152

In regard to the property in common provided by the preceding Article, the heirs may elect a person among themselves for its management.

第 1153 條(債務之連帶責任)

繼承人對於被繼承人之債務，以因繼承所得遺產為限，負連帶責任。

繼承人相互間對於被繼承人之債務，除法律另有規定或另有約定外，按其應繼分比例負擔之。

Article 1153

Heirs shall be jointly liable for the debts of the decedent but liabilities are limited to the extent of the property acquired from the estate.

Among the heirs, each heir is liable for the decedent's debts based upon their relative share of the total estate, unless otherwise provided by law or agreed upon by the heirs.

第二節(刪除)

Section 2 (Repealed)

第 1154 條(繼承人之權義)

繼承人對於被繼承人之權利、義務，不因繼承而消滅。

Article 1154

Heirs' rights and obligations towards the decedent shall not be extinguished by virtue of the succession.

第 1155 條

(刪除)

Article 1155

(Repealed)

第 1156 條(繼承人開具遺產清冊之呈報)

繼承人於知悉其得繼承之時起三個月內開具遺產清冊陳報法院。

前項三個月期間，法院因繼承人之聲請，認為必要時，得延展之。

繼承人有數人時，其中一人已依第一項開具遺產清冊陳報法院者，其他繼承人視為已陳報。

Article 1156

An heir shall report to the court along with an inventory of the property of the decedent within three months after becoming aware of his or her right to the inheritance.

In regard to the three-month period in the preceding Paragraph, the court, if necessary, may extend the duration for filing an inventory report upon a petition of the heir.

If one of the heirs, based on Paragraph 1, has submitted an inventory of the property to the court, all other heirs are considered as if they have submitted an inventory of the property to the court.

第 1156-1 條(債權人遺產清冊之提出)

債權人得向法院聲請命繼承人於三個月內提出遺產清冊。

法院於知悉債權人以訴訟程序或非訟程序向繼承人請求清償繼承債務時，得依職權命繼承人於三個月內提出遺產清冊。

前條第二項及第三項規定，於第一

Article 1156- 1

A creditor may request the court to order the heirs to submit within three months an inventory of the property.

When a court is aware of creditors taking proceedings or other actions against heirs to request for payment of debt resulting from succession, the court may order heirs of the decedent submit within three months an inventory of the property.

The provisions of the preceding article paragraph 2 and 3 apply

項及第二項情形，準用之。

mutatis mutandis to the case provided in the preceding paragraph 1 and 2.

第 1157 條(報明債權之公示催告及其期限)

繼承人依前二條規定陳報法院時，法院應依公示催告程序公告，命被繼承人之債權人於一定期限內報明其債權。

前項一定期限，不得在三個月以下。

Article 1157

Where the heir submits an inventory report to the court in accordance with the preceding two Articles, the court shall give public notice according to the procedure of public summons, calling upon the creditors of the decedent to present their claims within a specified period of time.

The specified period of time provided by the preceding Paragraph shall not be less than three months.

第 1158 條(償還債務之限制)

繼承人在前條所定之一定期限內，不得對於被繼承人之任何債權人償還債務。

Article 1158

An heir shall not, within the specified period of time provided by the preceding Article, make repayment to any of the deceased's creditors.

第 1159 條(依期報明債權之償還)

在第一千一百五十七條所定之一定期限屆滿後，繼承人對於在該一定期限內報明之債權及繼承人所已知之債權，均應按其數額，比例計算，以遺產分別償還。但不得害及有優先權人之利益。

繼承人對於繼承開始時未屆清償期之債權，亦應依第一項規定予以清償。

前項未屆清償期之債權，於繼承開始時，視為已到期。其無利息者，其債權額應扣除自第一千一百五十七條所定之一定期限屆滿時起至到期時止之法定利息。

Article 1159

Upon the expiration of the specified period of time provided in Article 1157, an heir shall make repayment out of the deceased's property to such creditors as have presented their claims within the said period of time and to other creditors who are known to him in proportion to the amounts of their respective claims, but the rights of the preferential creditors must not be injured.

An heir shall, from the opening of the succession, make payments according to Paragraph 1, even the debts are not yet due.

第 1160 條(交付遺贈之限制)

繼承人非依前條規定償還債務後，不得對受遺贈人交付遺贈。

Article 1160

Until an heir has performed his obligations in accordance with the preceding Article, he shall not hand over any legacy to a legatee.

第 1161 條(繼承人之賠償責任及受害人之返還請求權)

繼承人違反第一千一百五十八條至第一千一百六十條之規定，致被繼承人之債權人受有損害者，應負賠償之責。

前項受有損害之人，對於不當受領之債權人或受遺贈人，得請求返還其不當受領之數額。

Article 1161

An heir who has caused damages to the creditors of the deceased by acting contrary to Article 1158 to Article 1160 is liable to make compensation.

A person who has suffered damages as provided in the preceding Paragraph may claim reimbursement from such a creditor or a legatee who has improperly received repayments of the amount one has received improperly.

繼承人對於不當受領之債權人或受遺贈人，不得請求返還其不當受領之數額。

An heir shall not claim from the creditors or legatees the amount which they have received improperly.

第 1162 條(未依期報明債權之償還)

被繼承人之債權人，不於第一千一百五十七條所定之一定期限內報明其債權，而又為繼承人所不知者，僅得就賸餘遺產，行使其權利。

Article 1162

Any creditor of the deceased who has failed to present one's claims within the specified period of time provided in Article 1157, and were also unknown to the heir, may exercise his right only upon such part of the deceased's property as remains after all other legal repayments.

第 1162-1 條(繼承人之清償債權責任)

繼承人未依第一千一百五十六條、第一千一百五十六條之一開具遺產清冊陳報法院者，對於被繼承人債權人之全部債權，仍應按其數額，比例計算，以遺產分別償還。但不得害及有優先權人之利益。前項繼承人，非依前項規定償還債務後，不得對受遺贈人交付遺贈。繼承人對於繼承開始時未屆清償期之債權，亦應依第一項規定予以清償。前項未屆清償期之債權，於繼承開始時，視為已到期。其無利息者，其債權額應扣除自清償時起至到期時止之法定利息。

Article 1162- 1

An heir, who does not report to the court an inventory of the property of the decedent according to Articles 1156 and 1156-1, shall make repayment out of the decedent's property to the decedent's creditors' all rights in proportion to the amounts of their respective claims, but the rights of the preferential creditors must not be injured.

Until the preceding heir has performed his obligations in accordance with the preceding Article, he shall not hand over any legacy to a legatee.

An heir shall, from the opening of the succession, make payments according to Paragraph 1, even the debts are not yet due.

第 1162-2 條(限定繼承之例外原則)

繼承人違反第一千一百六十二條之一規定者，被繼承人之債權人得就應受清償而未受償之部分，對該繼承人行使權利。

繼承人對於前項債權人應受清償而未受償部分之清償責任，不以所得遺產為限。但繼承人為無行為能力人或限制行為能力人，不在此限。

繼承人違反第一千一百六十二條之一規定，致被繼承人之債權人受有損害者，亦應負賠償之責。

前項受有損害之人，對於不當受領之債權人或受遺贈人，得請求返還其不當受領之數額。

繼承人對於不當受領之債權人或

Article 1162- 2

For a violation of Article 1162-1 by an heir, the creditors of the decedent may exercise their rights upon the part which shall be performed but not yet performed.

The heir's obligations to the preceding creditors' debts which shall be performed but not yet performed are not limited to the extent of the property acquired from the estate. This shall not apply to heirs who are persons of no or limited in capacity.

An heir who has caused damages to the creditors of the deceased by acting contrary to Article 1162-1 is liable to make compensation.

A person who has suffered damages as provided in the preceding Paragraph may claim reimbursement from such a creditor or a legatee who has improperly received repayments of the amount one has received improperly.

An heir shall not claim from the creditors or legatees the amount

受遺贈人，不得請求返還其不當受領之數額。

which they have received improperly.

第 1163 條(限定繼承利益之喪失)

繼承人中有下列各款情事之一者，不得主張第一千一百四十八條第二項所定之利益：
一、隱匿遺產情節重大。
二、在遺產清冊為虛偽之記載情節重大。
三、意圖詐害被繼承人之債權人之權利而為遺產之處分。

Article 1163

In any of the following cases, an heir shall be disqualified to claim the benefit provided by Article 1148, Paragraph 2:
(1) Where the heir has grossly concealed the decedent's property;
(2) Where the heir grossly falsifies entries in the inventory report of the decedent's property;
(3) Where the heir has disposed of the decedent's property with the intention of fraudulently infringing upon the rights of the deceased's creditors.

第三節 遺產之分割

Setcion 3 PARTITION OF INHERITANCE

第 1164 條(遺產分割自由原則)

繼承人得隨時請求分割遺產。但法律另有規定或契約另有訂定者，不在此限。

Article 1164

An heir may at any time demand the partition of the inheritance unless it is otherwise provided by law or agreed upon by contract.

第 1165 條(分割遺產之方法)

被繼承人之遺囑，定有分割遺產之方法，或託他人代定者，從其所定。
遺囑禁止遺產之分割者，其禁止之效力以十年為限。

Article 1165

Where the will of the deceased has determined, or asked a third person to determine the method of partition of the inheritance, the method so determined shall be followed.
Where a will prohibits the partition of the deceased's property, the effect of such prohibition is limited to ten years.

第 1166 條(胎兒應繼分之保留)

胎兒為繼承人時，非保留其應繼分，他繼承人不得分割遺產。

胎兒關於遺產之分割，以其母為代理人。

Article 1166

Where one of the heirs is an unborn child, partition of the deceased's property by the other heirs shall not take place unless the entitled portion of such child has been reserved.
In regard to such partition of inheritance, the mother acts as agent of the unborn child.

第 1167 條

(刪除)

Article 1167

(Repealed)

第 1168 條(分割之效力(一) - 繼承人之互相擔保責任)

遺產分割後，各繼承人按其所得部分，對於他繼承人因分割而得之遺產，負與出賣人同一之擔保責任。

Article 1168

After the partition of the inheritance each heir bears, in proportion to the share he has acquired, the same obligation of warranty as that of a seller in regard to the property that the other heirs have acquired by the partition.

第 1169 條 (分割之效力(二) - 債務人資力之擔保責任)

遺產分割後，各繼承人按其所得部分，對於他繼承人因分割而得之債

Article 1169

After the partition of the inheritance each heir is, in regard to claims acquired by other heirs consequent upon the partition,

權，就遺產分割時債務人之支付能力，負擔保之責。

前項債權，附有停止條件或未屆清償期者，各繼承人就應清償時債務人之支付能力，負擔保之責。

第 1170 條(分割之效力(三) - 擔保責任人無資力時之分擔)

依前二條規定負擔保責任之繼承人中，有無支付能力不能償還其分擔額者，其不能償還之部分，由有請求權之繼承人與他繼承人，按其所得部分比例分擔之。但其不能償還，係由有請求權人之過失所致者，不得對於他繼承人請求分擔。

第 1171 條(分割之效力(四)連帶債務之免除)

遺產分割後，其未清償之被繼承人之債務，移歸一定之人承受，或劃歸各繼承人分擔，如經債權人同意者，各繼承人免除連帶責任。繼承人之連帶責任，自遺產分割時起，如債權清償期在遺產分割後者，自清償期屆滿時起，經過五年而免除。

第 1172 條(分割之計算(一) - 債務之扣還)

繼承人中如對於被繼承人負有債務者，於遺產分割時，應按其債務數額，由該繼承人之應繼分內扣還。

第 1173 條(分割之計算(二) - 贈與之歸扣)

繼承人中有在繼承開始前因結婚、分居或營業，已從被繼承人受有財產之贈與者，應將該贈與價額加入繼承開始時被繼承人所有之財產中，為應繼遺產。但被繼承人於贈與時有反對之意思表示者，不在此限。

前項贈與價額，應於遺產分割時，由該繼承人之應繼分中扣除。

bound to warrant, in proportion to the share he has acquired, the solvency of the debtor at the time of the partition.

Where a claim provided by the preceding Paragraph is subject to a condition precedent or where the time of performance of the obligation is not yet due, each heir is bound to warrant the solvency of the debtor at the time when the obligation is to be performed.

Article 1170

Where one of the heirs bound for warranty under the two preceding Articles is insolvent and cannot make reimbursement for the amount he undertakes, the part which he is unable to reimburse is borne by the heir, who has the claim for reimbursement, and the other heirs respectively in proportion to the shares they have acquired. But if the inability to reimburse was caused by the fault of the claimant, he is barred to demand the others to divide up such burden.

Article 1171

If after the partition of the deceased's property, the creditors have consented to the assignment of the deceased's repayment liability to one heir or to its division among the heirs, each heir is thus released from their joint liability. The heirs are released from their joint liability at the expiration of five years from the time of the partition of the inheritance, or, if the date of performance comes after the partition, from that date.

Article 1172

If one of the heirs is in debts with the deceased, the amount of the debt shall at the time of partition of the inheritance, be deducted from that heir's entitled portion.

Article 1173

If one of the heirs has, before the opening of succession, received gifts in property from the deceased for the purpose of concluding a marriage, separation from home, or carrying on trade, the value of such gifts shall be added to the inheritable property at the opening of the succession, thus constituting together the property of the succession. But this does not apply where the deceased has made a contrary declaration of intention at the time of giving.

The value of such gifts as provided in the preceding Paragraph shall, at the time of the partition of inheritance, be deducted

贈與價額，依贈與時之價值計算。

from the entitled portion of the heir in question.

The value of a gift in question shall be calculated as when it was given.

第四節 繼承之拋棄

Section 4 WAIVER OF INHERITANCE

第 1174 條(繼承權拋棄之自由及方法)

繼承人得拋棄其繼承權。
前項拋棄，應於知悉其得繼承之時起三個月內，以書面向法院為之。

拋棄繼承後，應以書面通知因其拋棄而應為繼承之人。但不能通知者，不在此限。

Article 1174

An heir may waive his or her right to an inheritance. Such waiver provided by the preceding Paragraph must be asserted by a written declaration to the court within three months after becoming aware of his or her right to the inheritance.

After the waiver of inheritance, he or she shall notify in writing the person who is entitled to succeed the inheritance due to his or her waiver unless such a notification is impractical.

第 1175 條(繼承拋棄之效力)

繼承之拋棄，溯及於繼承開始時發生效力。

Article 1175

Waiver of inheritance takes effect retroactively at the opening of the succession.

第 1176 條(拋棄繼承權人應繼分之歸屬)

第一千一百三十八條所定第一順序之繼承人中有拋棄繼承權者，其應繼分歸屬於其他同為繼承之人。

第二順序至第四順序之繼承人中，有拋棄繼承權者，其應繼分歸屬於其他同一順序之繼承人。
與配偶同為繼承之同一順序繼承人均拋棄繼承權，而無後順序之繼承人時，其應繼分歸屬於配偶。

配偶拋棄繼承權者，其應繼分歸屬於與其同為繼承之人。

第一順序之繼承人，其親等近者均拋棄繼承權時，由次親等之直系血親卑親屬繼承。

先順序繼承人均拋棄其繼承權時，由次順序之繼承人繼承。其次順序繼承人有無不明或第四順序之繼承人均拋棄其繼承權者，準用關於無人承認繼承之規定。

因他人拋棄繼承而應為繼承之人，為拋棄繼承時，應於知悉其得

Article 1176

Where one of the first priority heirs as provided in Article 1138 waives his or her right to the inheritance, his or her entitled portion shall accrue to those other heirs whose rights to the inheritance accrued concurrently with him or her.

Where one of the second, third or fourth priority heirs waives his or her right to the inheritance, his or her entitled portion shall accrue to the other heirs of the same priority.

Where all the heirs in the same priority as the decedent's spouse waive their rights to the inheritance and there is no heir in the subsequent priority, their entitled portions shall accrue to the spouse.

Where the spouse waives his or her right to the inheritance, the entitled portion shall accrue to those other heirs whose rights to the inheritance accrued concurrently with him or her.

For heirs of first priority, if all those closest in degree of relationship to the decedent waive their right to the inheritance, the lineal descendants by blood to heirs of first priority in the next degree of relationship shall inherit.

Where all preceding order of priority waive their right to the inheritance, the heirs who are next in order shall inherit their entitled portions. If it is not certain whether or not there is an heir in the next order of priority or all the heirs in the fourth order waive their right to the inheritance, the relevant provisions in this law regulating unacknowledged succession shall apply.

Where a person, who becomes an heir due to the waiver of other heirs, waives his or her right to the inheritance, such waiver

繼承之日起三個月內為之。

must be conducted within three months after becoming aware of his or her right to the inheritance

第 1176-1 條(拋棄繼承權者繼續管理遺產之義務)

拋棄繼承權者，就其所管理之遺產，於其他繼承人或遺產管理人開始管理前，應與處理自己事務為同一之注意，繼續管理之。

Article 1176- 1

A heir who has waived the right to inheritance shall continue to manage the property of the deceased with the same degree of caution as managing his own property before other heir(s) or manager(s) begin to take over the management.

第五節 無人承認之繼承

Section 5 UNACKNOWLEDGED SUCCESSION

第 1177 條(遺產管理人之選定及報明)

繼承開始時，繼承人之有無不明者，由親屬會議於一個月內選定遺產管理人，並將繼承開始及選定遺產管理人之事由，向法院報明。

Article 1177

Where, upon the opening of the succession, it is not clear whether or not there is an heir, the family council shall appoint a manager for the property of the deceased within one month, and report to the court the opening of the succession and the appointment of the manager.

第 1178 條(搜索繼承人之公示催告與選任遺產管理人)

親屬會議依前條規定為報明後，法院應依公示催告程序，定六個月以上之期限，公告繼承人，命其於期限內承認繼承。

無親屬會議或親屬會議未於前條所定期限內選定遺產管理人者，利害關係人或檢察官，得聲請法院選任遺產管理人，並由法院依前項規定為公示催告。

Article 1178

Upon report of the family council pursuant to the preceding Article, the court shall give public notice in accordance with the procedures of public summons, calling upon the heirs to acknowledge the succession within a period of not less than six months.

In the absence of a family council, or where the family council fails to appoint a manager for the property of the deceased within the time specified in the preceding Article, any interested party or public prosecutor may apply to the court for appointment of a manager for the property of the deceased, and then the court shall give public summons pursuant to the preceding Paragraph.

第 1178-1 條(法院為保存遺產之必要處置)

繼承開始時繼承人之有無不明者，在遺產管理人選定前，法院得因利害關係人或檢察官之聲請，為保存遺產之必要處置。

Article 1178- 1

The court may, where it is not clear whether there is an heir upon the opening of the succession, and prior to the appointment of a manager for the property of the deceased, adopt necessary measures to preserve the property upon application of an interested party or a public prosecutor.

第 1179 條(遺產管理人之職務)

遺產管理人之職務如左：

- 一、編製遺產清冊。
- 二、為保存遺產必要之處置。

Article 1179

The functions of a manager for the property of the deceased are as follows:

- (1) To draw up an inventory of the property of the deceased;
- (2) To take such measures as are necessary for the preservation of the property of the deceased;

三、聲請法院依公示催告程序，限定一年以上之期間，公告被繼承人之債權人及受遺贈人，命其於該期間內報明債權及為願受遺贈與否之聲明，被繼承人之債權人及受遺贈人為管理人所已知者，應分別通知之。

四、清償債權或交付遺贈物。

五、有繼承人承認繼承或遺產歸屬國庫時，為遺產之移交。

前項第一款所定之遺產清冊，管理人應於就職後三個月內編製之；第四款所定債權之清償，應先於遺贈物之交付，為清償債權或交付遺贈物之必要，管理人經親屬會議之同意，得變賣遺產。

第 1180 條(遺產管理人之報告義務)

遺產管理人，因親屬會議，被繼承人之債權人或受遺贈人之請求，應報告或說明遺產之狀況。

第 1181 條(清償債務與交付遺贈物之限制)

遺產管理人非於第一千一百七十九條第一項第三款所定期間屆滿後，不得對被繼承人之任何債權人或受遺贈人，償還債務或交付遺贈物。

第 1182 條(未依期限報明債權及聲明受遺贈之償還)

被繼承人之債權人或受遺贈人，不於第一千一百七十九條第一項第三款所定期間內為報明或聲明者，僅得就賸餘遺產，行使其權利。

第 1183 條(遺產管理人之報酬)

遺產管理人得請求報酬，其數額由親屬會議按其勞力及其與被繼承人之關係酌定之。

第 1184 條(遺產管理人行為效果之擬制)

第一千一百七十八條所定之期限

(3) To request the court to give public notice in accordance with the procedure of public summons, fixing a period of time not less than one year and ordering the creditors and legatees of the deceased to make within such period a statement of their claims or a declaration as to whether they are willing to accept the legacies. Where the creditors and legatees of the deceased are already known to the manager, they shall be notified respectively;

(4) To settle claims, and to deliver legacies;

(5) To hand over the property in cases where the succession has been acknowledged by an heir or the property accrues to the Treasury.

The manager shall draw up the inventory of the deceased's property provided in Subparagraph 1 of the preceding Paragraph within three months after coming into office. The settlement of claims under Subparagraph 4 shall precede the delivery of legacies. Where it is necessary for settling claims or delivering legacies, the manager may sell the deceased's property with the consent of the family council.

Article 1180

The manager shall, at the request of the family council, the creditors or legatees of the deceased, make a report on or given an explanation for the deceased's property.

Article 1181

The manager for the property of the deceased shall not settle any obligation with creditor(s) of the deceased nor deliver any legacy to legatee(s) of the deceased before expiration of the period provided in Subparagraph 3 of Paragraph 1 of Article 1179.

Article 1182

Creditors or legatees of the deceased who fail to make such statement or declaration as provided in Subparagraph 3 of Paragraph 1 of Article 1179 may exercise their right only upon such part of the deceased's property as remains over.

Article 1183

The manager may claim a remuneration, the amount of which is to be determined by the family council in consideration of his labor and his relation to the deceased.

Article 1184

Where an heir acknowledges the succession within the period

內，有繼承人承認繼承時，遺產管理人在繼承人承認繼承前所為之職務上行為，視為繼承人之代理。

provided in Article 1178, the manager, in regard to acts done by him in the course of performing his functions before such acknowledgement by the heir, is legally deemed to have been the agent of the heir.

第 1185 條(賸餘遺產之歸屬)

第一千一百七十八條所定之期限屆滿，無繼承人承認繼承時，其遺產於清償債權並交付遺贈物後，如有賸餘，歸屬國庫。

Article 1185

Where no heir acknowledges the succession, on the expiration of the period provided in Article 1178, such part of the property of the deceased as remains over after the settlement of claims and the delivery of legacies accrues to the Treasury.

第三章 遺囑

CHAPTER III WILLS

第一節 通則

Section 1 - GENERAL PROVISIONS

第 1186 條(遺囑能力)

無行為能力人，不得為遺囑。
限制行為能力人，無須經法定代理人之允許，得為遺囑。但未滿十六歲者，不得為遺囑。

Article 1186

A person without disposing capacity may not make a will.
A person limited in disposing capacity may make a will without first obtaining the approval of his statutory agent. But a person who has not completed his sixteen years of age may not make a will.

第 1187 條(遺產之自由處分)

遺囑人於不違反關於特留分規定之範圍內，得以遺囑自由處分遺產。

Article 1187

A testator may freely dispose of his property by a will so far as it does not contravene the provisions in regard to compulsory portions.

第 1188 條(受遺贈權之喪失)

第一千一百四十五條喪失繼承權之規定，於受遺贈人準用之。

Article 1188

The provisions of Article 1145 concerning the forfeiture of the right to inheritance apply to legatees mutatis mutandis.

第二節 方式

Section 2 FORMALITIES

第 1189 條(遺囑方式之種類)

遺囑應依左列方式之一為之：
一、自書遺囑。
二、公證遺囑。
三、密封遺囑。
四、代筆遺囑。
五、口授遺囑。

Article 1189

A will shall be made in one of the following forms:
(1) A holograph will;
(2) A notarized will;
(3) A sealed will;
(4) A "dictated" will;
(5) An oral will.

第 1190 條(自書遺囑)

自書遺囑者，應自書遺囑全文，記明年、月、日，並親自簽名；如有增減、塗改，應註明增減、塗改之處所及字數，另行簽名。

Article 1190

For making a holograph will, the testator must himself write the whole text, stating the year, month and day and sign it. In case of any insertion, cancellation, erasure or alteration, he must make and sign an additional note stating the place in the text where words have been inserted, erased or altered, and the number of such words.

第 1191 條(公證遺囑)

公證遺囑，應指定二人以上之見證人，在公證人前口述遺囑意旨，由公證人筆記、宣讀、講解，經遺囑人認可後，記明年、月、日，由公證人、見證人及遺囑人同行簽名：遺囑人不能簽名者，由公證人將其事由記明，使按指印代之。

前項所定公證人之職務，在無公證人之地，得由法院書記官行之，僑民在中華民國領事駐在地為遺囑時，得由領事行之。

第 1192 條(密封遺囑)

密封遺囑，應於遺囑上簽名後，將其密封，於封縫處簽名，指定二人以上之見證人，向公證人提出，陳述其為自己之遺囑，如非本人自寫，並陳述繕寫人之姓名、住所，由公證人於封面記明該遺囑提出之年、月、日及遺囑人所為之陳述，與遺囑人及見證人同行簽名。前條第二項之規定，於前項情形準用之。

第 1193 條(密封遺囑之轉換)

密封遺囑，不具備前條所定之方式，而具備第一千一百九十條所定自書遺囑之方式者，有自書遺囑之效力。

第 1194 條(代筆遺囑)

代筆遺囑，由遺囑人指定三人以上之見證人，由遺囑人口述遺囑意旨，使見證人中之一人筆記、宣讀、講解，經遺囑人認可後，記明年、月、日及代筆人之姓名，由見證人全體及遺囑人同行簽名，遺囑人不能簽名者，應按指印代之。

第 1195 條(口授遺囑之方法)

遺囑人因生命危急或其他特殊情形，不能依其他方式為遺囑者，得

Article 1191

For making a notarized will, the testator must designate at least two witnesses and make an oral statement of his testamentary wishes before a public notary. The statement must be written down, read over and explained by the public notary, and, after the testator has given approval, signed by him together with the witnesses and the testator, stating the year, month and day. In case the testator is not able to sign his name, the public notary must state the circumstances and make him affix his fingerprint in lieu of signature.

The functions of a public notary as provided in the preceding Paragraph may be exercised by a court clerk in a place where there is no public notary, or by a Chinese consul when a overseas Chinese makes a will in the place where such consul resides.

Article 1192

For making a sealed will, the testator must, after signing it, have it securely enveloped, affix a signature across the seam of the envelope, designate at least two witnesses, and declare before a public notary that it is his will, and, if not written by himself, also declare the name and domicile of its draftsman; the public notary must state on the envelope the date on which the will is brought and the declaration of the testator, and sign together with the testator and the witnesses.

The provisions of Paragraph 2 of the preceding Article apply mutatis mutandis to the situation provided in the preceding Paragraph.

Article 1193

A sealed will which may be defective as regards the formalities provided in the preceding Article but is otherwise in compliance with the formalities of a holograph will provided in Article 1190 has the effect of a holograph will.

Article 1194

For making a "dictated" will, the testator must designate at least three witnesses, make an oral statement of his testamentary wishes, have it written down, read over and explained by one of the witnesses; after the testator has given his approval, the statement bearing the year, month and day, and the name of the draftsman, must be signed by all the witnesses and the testator together. Where the testator is not able to sign his name, he must affix his fingerprint in lieu of signature.

Article 1195

Where a testator by reason of imminent danger of death or other exceptional circumstances is unable to make a will in any other

依左列方式之一為口授遺囑：

一、由遺囑人指定二人以上之見證人，並口授遺囑意旨，由見證人中之一人，將該遺囑意旨，據實作成筆記，並記明年、月、日，與其他見證人同行簽名。

二、由遺囑人指定二人以上之見證人，並口授遺囑意旨、遺囑人姓名及年、月、日，由見證人全體口述遺囑之為真正及見證人姓名，全部予以錄音，將錄音帶當場密封，並記明年、月、日，由見證人全體在封縫處同行簽名。

第 1196 條(口授遺囑之失效)

口授遺囑，自遺囑人能依其他方式為遺囑之時起，經過三個月而失其效力。

第 1197 條(口授遺囑之鑑定)

口授遺囑，應由見證人中之一人或利害關係人，於為遺囑人死亡後三個月內，提經親屬會議認定其真偽，對於親屬會議之認定如有異議，得聲請法院判定之。

第 1198 條(遺囑見證人資格之限制)

下列之人，不得為遺囑見證人：

- 一、未成年人。
- 二、受監護或輔助宣告之人。
- 三、繼承人及其配偶或其直系血親。
- 四、受遺贈人及其配偶或其直系血親。
- 五、為公證人或代行公證職務人之同居人助理人或受僱人。

第三節 效力

第 1199 條(遺囑生效期)

遺囑自遺囑人死亡時發生效力。

第 1200 條(附停止條件遺贈之生效期)

遺囑所定遺贈，附有停止條件者，自條件成就時，發生效力。

第 1201 條(遺贈之失效)

form, he may make it orally in one of the following forms:

(1) For making an oral will, the testator must designate two or more witnesses, state orally his testamentary wishes; one of the witnesses must set down these wishes correctly in writing, state the year, month and day, and sign together with the witnesses.

(2) The testator must designate two or more witnesses, state orally his testamentary wishes, his name, the year, month and day; all the witnesses must make an oral statement as to the genuineness of such will and their names, have it and the oral will of the testator all tape recorded, make the recording tape securely enveloped on the spot, bear the year, month and day on the envelop, and affix the signatures of all the witnesses across the seam of the envelop.

Article 1196

In case, the testator is able to make a will in another way, an oral will shall be invalid after three months accordingly.

Article 1197

An oral will must be brought up by one of the witnesses or an interested person, within three months after the death of the testator, for decision by the family council as to its genuineness. Where objections arise regarding the decision of the family council, application may be made to the court for a judgment.

Article 1198

The following persons may not act as witness of will:

- (1) A minor;
- (2) A person who is subject to the order of the commencement of guardianship or assistantship;
- (3) An heir, his spouse or his lineal relatives by blood;
- (4) A legatee, his spouse or his lineal relatives by blood;
- (5) Persons who are assistants to, or employed by, or living together with, the public notary or the person that exercises the functions of a public notary.

Section 3 – EFFECTS

Article 1199

A will takes effect from the time of the death of the testator.

Article 1200

When a legacy provided in a will is subject to a condition precedent, it takes effect from the time when such condition is fulfilled.

Article 1201

受遺贈人於遺囑發生效力前死亡者，其遺贈不生效力。

If the legatee dies before the will becomes effective, the legacy does not take effect.

第 1202 條(遺贈之無效)

遺囑人以一定之財產為遺贈，而其財產在繼承開始時，有一部分不屬於遺產者，其一部分遺贈為無效；全部不屬於遺產者，其全部遺贈為無效。但遺囑另有意思表示者，從其意思。

Article 1202

If certain property is made the subject of legacy by the testator and, at the time of the opening of the succession, part of the property does not belong to the property of the deceased, such part of the legacy is invalid. If the whole property does not belong to the property of the deceased, the whole legacy is invalid. If however, a special intention is expressed in the will, such intention is to be followed.

第 1203 條(遺贈標之物之推定)

遺囑人因遺贈物滅失、毀損、變造、或喪失物之占有，而對於他人取得權利時，推定以其權利為遺贈；因遺贈物與他物附合或混合而對於所附合或混合之物取得權利時亦同。

Article 1203

Where the testator has acquired a right against a third person on account of the loss, destruction, damage or artificial alteration of the substance which forms the subject of the legacy, or the loss of its possession, such right is presumed to have been made the subject of the legacy. The same applies where, because the substance that forms the subject of a legacy is joined to or mixed with another thing, the testator has acquired a right over the composite or mixed thing.

第 1204 條(用益權之遺贈及其期限)

以遺產之使用、收益為遺贈，而遺囑未定返還期限，並不能依遺贈之性質定其期限者，以受遺贈人之終身為其期限。

Article 1204

Where the right to use and to collect fruits from the property of the deceased is made the subject of a legacy, and the time limit for the restitution [of such property] is not provided in the will nor can it be determined by the nature of the legacy, the time limit is the lifetime of the legatee.

第 1205 條(附負擔之遺贈)

遺贈附有義務者，受遺贈人以其所受利益為限，負履行之責。

Article 1205

Where the legacy is burdened with an obligation, the legatee is responsible for the performance only to the extent of the benefit received from the legacy.

第 1206 條(遺贈之拋棄及其效力)

受遺贈人在遺囑人死亡後，得拋棄遺贈。

遺贈之拋棄，溯及遺囑人死亡時發生效力。

Article 1206

A legatee may waive a legacy after the death of the testator.

The waiver of a legacy takes effect retroactively as from the time of the death of the testator.

第 1207 條(承認遺贈之催告及擬制)

繼承人或其他利害關係人，得定相當期限，請求受遺贈人於期限內為承認遺贈與否之表示；期限屆滿，尚無表示者，視為承認遺贈。

Article 1207

An heir or other interested person may fix a reasonable period of time and call upon the legatee to declare within such period whether or not he accepts the legacy. If no declaration has yet taken place upon the expiration of the period, the legacy is legally deemed to have been accepted.

第 1208 條(遺贈無效或拋棄之效果)

遺贈無效或拋棄時，其遺贈之財產，仍屬於遺產。

Article 1208

Where a legacy is invalid or waived, the property of the legacy remains part of the property of the deceased.

第四節 執行**Section 4 EXECUTION****第 1209 條(遺囑執行人之產生(一) - 遺囑指定)**

遺囑人得以遺囑指定遺囑執行人，或委託他人指定之。受前項委託者，應即指定遺囑執行人，並通知繼承人。

Article 1209

A testator may by will designate an executor or entrust a third person to do so.

A person so entrusted must, without delay, designate an executor and notify the heir thereof.

第 1210 條(遺囑執行人資格之限制)

未成年人、受監護或輔助宣告之人，不得為遺囑執行人。

Article 1210

A minor or a person who is subject to the order of the commencement of guardianship or assistantship may not act as executor of a will.

第 1211 條(遺囑執行人之產生(二) - 親屬會議法院之選任)

遺囑未指定遺囑執行人，並未委託他人指定者，得由親屬會議選定之；不能由親屬會議選定時，得由利害關係人聲請法院指定之。

Article 1211

Where a will has not designated an executor or entrusted another person to make the designation, the family council may elect an executor. Where cannot be elected by the family council has failed to elect an executor, an interested party may apply to the court to designate one.

第 1212 條(遺囑之提示)

遺囑保管人知有繼承開始之事實時，應即將遺囑提示於親屬會議；無保管人而由繼承人發見遺囑者亦同。

Article 1212

The custodian of a will must, as soon as he has knowledge of the opening of the succession, present the will to the family council. The same applies in case an heir discovers the will of which there is no custodian.

第 1213 條(密封遺囑之開視)

有封緘之遺囑，非在親屬會議當場或法院公證處，不得開視。前項遺囑開視時應製作紀錄，記明遺囑之封緘有無毀損情形，或其他特別情事，並由在場之人同行簽名。

Article 1213

A sealed will may not be opened unless in the presence of the family council or the office of public notary in the Court.

Upon opening of the will pursuant to the preceding Subparagraph, record for whether or not the sealed will is damaged or whether or-not there iss any particular matter shall be made and signed by persons present.

第 1214 條(遺囑執行人之執行職務(一) - 編製遺產清冊)

遺囑執行人就職後，於遺囑有關之財產，如有編製清冊之必要時，應即編製遺產清冊，交付繼承人。

Article 1214

After an executor comes into office, if it is necessary to draw up an inventory of the property related to the will, he must without delay draw up such an inventory and deliver it to the heir.

第 1215 條(遺囑執行人之執行職**Article 1215**

務(二) - 遺產管理及必要行為)

遺囑執行人有管理遺產，並為執行上必要行為之職務。

An executor is under an obligation to manage the property of the deceased and to do all acts necessary for the execution of his duty.

遺囑執行人因前項職務所為之行為，視為繼承人之代理。

The executor is deemed to be the agent of the heir in regard to acts done by him in the course of performing his duty as provided in the preceding Paragraph.

第 1216 條(遺囑執行人之執行職務(三) - 繼承人妨害之排除)

繼承人於遺囑執行人執行職務中，不得處分與遺囑有關之遺產，並不得妨礙其職務之執行。

Article 1216

While an executor is executing his duty, an heir may not dispose of any property related to the will, or obstruct the executor in the execution of his duty.

第 1217 條(遺囑執行人之執行職務(四)數執行人執行職務之方法)

遺囑執行人有數人時，其執行職務，以過半數決之。但遺囑另有意思表示者，從其意思。

Article 1217

Where there are several executors, their duties are performed in accordance with a majority vote; but if a special intention is declared in the will, such intention has to be followed.

第 1218 條(遺囑執行人之解任)

遺囑執行人怠於執行職務，或有其他重大事由時，利害關係人，得請求親屬會議改選他人；其由法院指定者，得聲請法院另行指定。

Article 1218

If an executor neglects his duty, or if there be other grave causes, an interested person may apply to the family council for the election of another executor. If the executor in question was designated by a court, an application may be made to the court for the designation of another.

第五節 撤回

Section 5 WITHDRAWAL

第 1219 條(遺囑撤回之自由及其方式)

遺囑人得隨時依遺囑之方式，撤回遺囑之全部或一部。

Article 1219

A testator may at any time withdraw the whole or a part of his will in one of the forms prescribed for making a will.

第 1220 條(視為撤回(一) - 前後遺囑牴觸)

前後遺囑有相牴觸者，其牴觸之部分，前遺囑視為撤回。

Article 1220

If a will of an earlier date and a will of a later date conflict, the former is deemed to have been withdrawn as regards the conflicting parts.

第 1221 條(視為撤回(二) - 遺囑與行為牴觸)

遺囑人於為遺囑後所為之行為與遺囑有相牴觸者，其牴觸部分，遺囑視為撤回。

Article 1221

Where acts done by the testator after having made a will conflict with such will, the will is deemed to have been withdrawn as regards the conflicting parts.

第 1222 條(視為撤回(三) - 遺囑之廢棄)

遺囑人故意破毀或塗銷遺囑，或在

Article 1222

Where the testator has intentionally destroyed or Repealed a

遺囑上記明廢棄之意思者，其遺囑視為撤回。

will, or stated in the will his intention of annulling it, the will is deemed to have been withdrawn.

第六節 特留分

Section 6 COMPULSORY PORTIONS

第 1223 條(特留分之決定)

繼承人之特留分，依左列各款之規定：

- 一、直系血親卑親屬之特留分，為其應繼分二分之一。
- 二、父母之特留分，為其應繼分二分之一。
- 三、配偶之特留分，為其應繼分二分之一。
- 四、兄弟姊妹之特留分，為其應繼分三分之一。
- 五、祖父母之特留分，為其應繼分三分之一。

Article 1223

The compulsory portion of an heir is determined as follows:

- (1) For a lineal descendant by blood, the compulsory portion is one half of his entitled portion;
- (2) For a parent, the compulsory portion is one half of his entitled portion;
- (3) For a spouse, the compulsory portion is one half of his entitled portion;
- (4) For a brother or a sister, the compulsory portion is one-third of his or her entitled portion;
- (5) For a grandparent, the compulsory portion is one-third of his entitled portion.

第 1224 條(特留分之算定)

特留分，由依第一千。一百七十三條算定之應繼財產中，除去債務額算定之。

Article 1224

A compulsory portion is determined by deducting the amount of debts from the property of the succession as reckoned according to Article 1173.

第 1225 條(遺贈之扣減)

應得特留分之人，如因被繼承人所為之遺贈，致其應得之數不足者，得按其不足之數由遺贈財產扣減之。受遺贈人有數人時，應按其所得遺贈價額比例扣減。

Article 1225

A person entitled to a compulsory portion may have the amount of the deficit deducted from the property of a legacy, if the amount of his compulsory portion becomes deficient on account of the legacy made by the testator. If there are several legatees, deductions must be made in proportion to the value of the legacies they severally receive.