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**EXECUTIVE ORDER NO. 209 July 6, 1987**
Title 1 Chap. 3 Sec. 39 Amended by RA 8533

## THE FAMILY CODE OF THE PHILIPPINES

**I, CORAZON C. AQUINO,** President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and promulgate the Family Code of the Philippines, as follows:

## TITLE I
## MARRIAGE

### Chapter 1. Requisites of Marriage

**Article 1.** Marriage is a special contract of permanent union between a man and a woman entered into in accordance with law for the establishment of conjugal and family life. It is the foundation of the family and an inviolable social institution whose nature, consequences, and incidents are governed by law and not subject to stipulation, except that marriage settlements may fix the property relations during the marriage within the limits provided by this Code. (52a)

**Article 2.** No marriage shall be valid, unless these essential requisites are present:

(1) Legal capacity of the contracting parties who must be a male and a female; and

(2) Consent freely given in the presence of the solemnizing officer. (53a)

**Article 3.** The formal requisites of marriage are:

(1) Authority of the solemnizing officer;

(2) A valid marriage license except in the cases provided for in Chapter 2 of this Title; and

(3) A marriage ceremony which takes place with the appearance of the contracting parties before the solemnizing officer and their personal declaration that they take each other as husband and wife in the presence of not less than two witnesses of legal age. (53a, 55a)

**Article 4.** The absence of any of the essential or formal requisites shall render the marriage void ab initio, except as stated in Article 35 (2).

A defect in any of the essential requisites shall not affect the validity of the marriage but the party or parties responsible for the irregularity shall be civilly, criminally and administratively liable. (n)

**Article 5.** Any male or female of the age of eighteen years or upwards not under any of the impediments mentioned in Articles 37 and 38, may contract marriage. (54a)

**Article 6.** No prescribed form or religious rite for the solemnization of the marriage is required. It shall be necessary, however, for the contracting parties to appear personally before the solemnizing officer and declare in the presence of not less than two witnesses of legal age that they take each other as husband and wife. This declaration shall be contained in the marriage certificate which shall be signed by the contracting parties and their witnesses and attested by the solemnizing officer.

In case of a marriage in articulo mortis, when the party at the point of death is unable to sign the marriage certificate, it shall be sufficient for one of the witnesses to the marriage to write the name of said party, which fact shall be attested by the solemnizing officer. (55a)

**Article 7.** Marriage may be solemnized by:

(1) Any incumbent member of the judiciary within the court's jurisdiction;

(2) Any priest, rabbi, imam, or minister of any church or religious sect duly authorized by his church or religious sect and registered with the civil registrar general, acting within the limits of the written authority granted by his church or religious sect and provided that at least one of the contracting parties belongs to the solemnizing officer's church or religious sect;

(3) Any ship captain or airplane chief only in the case mentioned in Article 31;

(4) Any military commander of a unit to which a chaplain is assigned, in the absence of the latter, during a military operation, likewise only in the cases mentioned in Article 32;

(5) Any consul-general, consul or vice-consul in the case provided in Article 10. (56a)

Article. 8. The marriage shall be solemnized publicly in the chambers of the judge or in open court, in the church, chapel or temple, or in the office the consul-general, consul or vice-consul, as the case may be, and not elsewhere, except in cases of marriages contracted on the point of death or in remote places in accordance with Article 29 of this Code, or where both of the parties request the solemnizing officer in writing in which case the marriage may be solemnized at a house or place designated by them in a sworn statement to that effect. (57a)

**Article 9.** A marriage license shall be issued by the local civil registrar of the city or municipality where either contracting party habitually resides, except in marriages where no license is required in accordance with Chapter 2 of this Title (58a)

**Article 10.** Marriages between Filipino citizens abroad may be solemnized by a consul-general, consul or vice-consul of the Republic of the Philippines. The issuance of the marriage license and the duties of the local civil registrar and of the solemnizing officer with regard to the celebration of marriage shall be performed by said consular official. (75a)

**Article 11.** Where a marriage license is required, each of the contracting parties shall file separately a sworn application for such license with the proper local civil registrar which shall specify the following:

(1) Full name of the contracting party;

(2) Place of birth;

(3) Age and date of birth;

(4) Civil status;

(5) If previously married, how, when and where the previous marriage was dissolved or annulled;

(6) Present residence and citizenship;

(7) Degree of relationship of the contracting parties;

(8) Full name, residence and citizenship of the father;

(9) Full name, residence and citizenship of the mother; and

(10) Full name, residence and citizenship of the guardian or person having charge, in case the contracting party has neither father nor mother and is under the age of twenty-one years.

The applicants, their parents or guardians shall not be required to exhibit their residence certificates in any formality in connection with the securing of the marriage license. (59a)

**Article 12.** The local civil registrar, upon receiving such application, shall require the presentation of the original birth certificates or, in default thereof, the baptismal certificates of the contracting parties or copies of such documents duly attested by the persons having custody of the originals. These certificates or certified copies of the documents by this Article need not be sworn to and shall be exempt from the documentary stamp tax. The signature and official title of the person issuing the certificate shall be sufficient proof of its authenticity.

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

The presentation of birth or baptismal certificate shall not be required if the parents of the contracting parties appear personally before the local civil registrar concerned and swear to the correctness of the lawful age of said parties, as stated in the application, or when the local civil registrar shall, by merely looking at the applicants upon their personally appearing before him, be convinced that either or both of them have the required age. (60a)

**Article 13.** In case either of the contracting parties has been previously married, the applicant shall be required to furnish, instead of the birth or baptismal certificate required in the last preceding article, the death certificate of the deceased spouse or the judicial decree of the absolute divorce, or the judicial decree of annulment or declaration of nullity of his or her previous marriage.

In case the death certificate cannot be secured, the party shall make an affidavit setting forth this circumstance and his or her actual civil status and the name and date of death of the deceased spouse. (61a)

**Article 14.** In case either or both of the contracting parties, not having been emancipated by a previous marriage, are between the ages of eighteen and twenty-one, they shall, in addition to the requirements of the preceding articles, exhibit to the local civil registrar, the consent to their marriage of their father, mother, surviving parent or guardian, or persons having legal charge of them, in the order mentioned. Such consent shall be manifested in writing by the interested party, who personally appears before the proper local civil registrar, or in the form of an affidavit made in the presence of two witnesses and attested before any official authorized by law to administer oaths. The personal manifestation shall be recorded in both applications for marriage license, and the affidavit, if one is executed instead, shall be attached to said applications. (61a)

**Article 15.** Any contracting party between the age of twenty-one and twenty-five shall be obliged to ask their parents or guardian for advice upon the intended marriage. If they do not obtain such advice, or if it be unfavorable, the marriage license shall not be issued till after three months following the completion of the publication of the application therefor. A sworn statement by the contracting parties to the effect that such advice has been sought, together with the written advice given, if any, shall be attached to the application for marriage license. Should the parents or guardian refuse to give any advice, this fact shall be stated in the sworn statement. (62a)

**Article 16.** In the cases where parental consent or parental advice is needed, the party or parties concerned shall, in addition to the requirements of the preceding articles, attach a certificate issued by a priest, imam or minister authorized to solemnize marriage under Article 7 of this Code or a marriage counsellor duly accredited by the proper government agency to the effect that the contracting parties have undergone marriage counselling. Failure to attach said certificates of marriage counselling shall suspend the issuance of the marriage license for a period of three months from the completion of the publication of the application. Issuance of the marriage license within the prohibited period shall subject the issuing officer to administrative sanctions but shall not affect the validity of the marriage.

Should only one of the contracting parties need parental consent or parental advice, the other party must be present at the counselling referred to in the preceding paragraph. (n)

**Article 17.** The local civil registrar shall prepare a notice which shall contain the full names and residences of the applicants for a marriage license and other data given in the applications. The notice shall be posted for ten consecutive days on a bulletin board outside the office of the local civil registrar located in a conspicous place within the building and accessible to the general public. This notice shall request all persons having knowledge of any impediment to the marriage to advise the local civil registrar thereof. The marriage license shall be issued after the completion of the period of publication. (63a)

**Article 18.** In case of any impediment known to the local civil registrar or brought to his attention, he shall note down the particulars thereof and his findings thereon in the application for marriage license, but shall nonetheless issue said license after the completion of the period of publication, unless ordered otherwise by a competent court at his own instance or that of any interest party. No filing fee shall be charged for the petition nor a corresponding bond required for the issuances of the order. (64a)

**Article 19.** The local civil registrar shall require the payment of the fees prescribed by law or regulations before the issuance of the marriage license. No other sum shall be collected in the nature of a fee or tax of any kind for the issuance of said license. It shall, however, be issued free of charge to indigent parties, that is those who have no visible means of income or whose income is insufficient for their subsistence a fact established by their affidavit, or by their oath before the local civil registrar. (65a)

**Article 20.** The license shall be valid in any part of the Philippines for a period of one hundred twenty days from the date of issue, and shall be deemed automatically cancelled at the expiration of the said period if the contracting parties have not made use of it. The expiry date shall be stamped in bold characters on the face of every license issued. (65a)

**Article 21.** When either or both of the contracting parties are citizens of a foreign country, it shall be necessary for them before a marriage license can be obtained, to submit a certificate of legal capacity to contract marriage, issued by their respective diplomatic or consular officials.

Stateless persons or refugees from other countries shall, in lieu of the certificate of legal capacity herein required, submit an affidavit stating the circumstances showing such capacity to contract marriage. (66a)

**Article 22.** The marriage certificate, in which the parties shall declare that they take each other as husband and wife, shall also state:

(1) The full name, sex and age of each contracting party;

(2) Their citizenship, religion and habitual residence;

(3) The date and precise time of the celebration of the marriage;

(4) That the proper marriage license has been issued according to law, except in marriage provided for in Chapter 2 of this Title;

(5) That either or both of the contracting parties have secured the parental consent in appropriate cases;

(6) That either or both of the contracting parties have complied with the legal requirement regarding parental advice in appropriate cases; and

(7) That the parties have entered into marriage settlement, if any, attaching a copy thereof. (67a)

**Article 23.** It shall be the duty of the person solemnizing the marriage to furnish either of the contracting parties the original of the marriage certificate referred to in Article 6 and to send the duplicate and triplicate copies of the certificate not later than fifteen days after the marriage, to the local civil registrar of the place where the marriage was solemnized. Proper receipts shall be issued by the local civil registrar to the solemnizing officer transmitting copies of the marriage certificate. The solemnizing officer shall retain in his file the quadruplicate copy of the marriage certificate, the copy of the marriage certificate, the original of the marriage license and, in proper cases, the affidavit of the contracting party regarding the solemnization of the marriage in place other than those mentioned in Article 8. (68a)

**Article 24.** It shall be the duty of the local civil registrar to prepare the documents required by this Title, and to administer oaths to all interested parties without any charge in both cases. The documents and affidavits filed in connection with applications for marriage licenses shall be exempt from documentary stamp tax. (n)

**Article 25.** The local civil registrar concerned shall enter all applications for marriage licenses filed with him in a registry book strictly in the order in which the same are received. He shall record in said book the names of the applicants, the date on which the marriage license was issued, and such other data as may be necessary. (n)

**Article 26.** All marriages solemnized outside the Philippines, in accordance with the laws in force in the country where they were solemnized, and valid there as such, shall also be valid in this country, except those prohibited under Articles 35 (1), (4), (5) and (6), 3637 and 38. (17a)

Where a marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry, the Filipino spouse shall have capacity to remarry under Philippine law. (As amended by Executive Order 227)

## Chapter 2. Marriages Exempted from License Requirement

**Article 27.** In case either or both of the contracting parties are at the point of death, the marriage may be solemnized without necessity of a marriage license and shall remain valid even if the ailing party subsequently survives. (72a)

**Article 28.** If the residence of either party is so located that there is no means of transportation to enable such party to appear personally before the local civil registrar, the marriage may be solemnized without necessity of a marriage license. (72a)

**Article 29.** In the cases provided for in the two preceding articles, the solemnizing officer shall state in an affidavit executed before the local civil registrar or any other person legally authorized to administer oaths that the marriage was performed in articulo mortis or that the residence of either party, specifying the barrio or barangay, is so located that there is no means of transportation to enable such party to appear personally before the local civil registrar and that the officer took the necessary steps to ascertain the ages and relationship of the contracting parties and the absence of legal impediment to the marriage. (72a)

**Article 30.** The original of the affidavit required in the last preceding article, together with the legible copy of the marriage contract, shall be sent by the person solemnizing the marriage to the local civil registrar of the municipality where it was performed within the period of thirty days after the performance of the marriage. (75a)

**Article 31.** A marriage in articulo mortis between passengers or crew members may also be solemnized by a ship captain or by an airplane pilot not only while the ship is at sea or the plane is in flight, but also during stopovers at ports of call. (74a)

**Article 32.** A military commander of a unit, who is a commissioned officer, shall likewise have authority to solemnize marriages in articulo mortis between persons within the zone of military operation, whether members of the armed forces or civilians. (74a)

**Article 33.** Marriages among Muslims or among members of the ethnic cultural communities may be performed validly without the necessity of marriage license, provided they are solemnized in accordance with their customs, rites or practices. (78a)

**Article 34.** No license shall be necessary for the marriage of a man and a woman who have lived together as husband and wife for at least five years and without any legal impediment to marry each other. The contracting parties shall state the foregoing facts in an affidavit before any person authorized by law to administer oaths. The solemnizing officer shall also state under oath that he ascertained the qualifications of the contracting parties are found no legal impediment to the marriage. (76a)

## Chapter 3. Void and Voidable Marriages

**Article 35.** The following marriages shall be void from the beginning:

(1) Those contracted by any party below eighteen years of age even with the consent of parents or guardians;

(2) Those solemnized by any person not legally authorized to perform marriages unless such marriages were contracted with either or both parties believing in good faith that the solemnizing officer had the legal authority to do so;

(3) Those solemnized without license, except those covered the preceding Chapter;

(4) Those bigamous or polygamous marriages not failing under Article 41;

(5) Those contracted through mistake of one contracting party as to the identity of the other; and

(6) Those subsequent marriages that are void under Article 53.

**Article 36.** A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization. (As amended by Executive Order 227)

**Article 37.** Marriages between the following are incestuous and void from the beginning, whether relationship between the parties be legitimate or illegitimate:

(1) Between ascendants and descendants of any degree; and

(2) Between brothers and sisters, whether of the full or half blood. (81a)

**Article 38.** The following marriages shall be void from the beginning for reasons of public policy:

(1) Between collateral blood relatives whether legitimate or illegitimate, up to the fourth civil degree;

(2) Between step-parents and step-children;

(3) Between parents-in-law and children-in-law;

(4) Between the adopting parent and the adopted child;

(5) Between the surviving spouse of the adopting parent and the adopted child;

(6) Between the surviving spouse of the adopted child and the adopter;

(7) Between an adopted child and a legitimate child of the adopter;

(8) Between adopted children of the same adopter; and

(9) Between parties where one, with the intention to marry the other, killed that other person's spouse, or his or her own spouse. (82)

**Article 39.** The action or defense for the declaration of absolute nullity shall not prescribe. However, in case of marriage celebrated before the effectivity of this Code and falling under Article 36, such action or defense shall prescribe in ten years after this Code shall taken effect. (As amended by Executive Order 227) (n)

**Article 40.** The absolute nullity of a previous marriage may be invoked for purposes of remarriage on the basis solely of a final judgment declaring such previous marriage void. (n).

**Article 41.** A marriage contracted by any person during subsistence of a previous marriage shall be null and void, unless before the celebration of the subsequent marriage, the prior spouse had been absent for four consecutive years and the spouse present has a well-founded belief that the absent spouse was already dead. In case of disappearance where there is danger of death under the circumstances set forth in the provisions of Article 391 of the Civil Code, an absence of only two years shall be sufficient.

For the purpose of contracting the subsequent marriage under the preceding paragraph the spouse present must institute a summary proceeding as provided in this Code for the declaration of presumptive death of the absentee, without prejudice to the effect of reappearance of the absent spouse. (83a)

**Article 42.** The subsequent marriage referred to in the preceding Article shall be automatically terminated by the recording of the affidavit of reappearance of the absent spouse, unless there is a judgment annulling the previous marriage or declaring it void ab initio.

A sworn statement of the fact and circumstances of reappearance shall be recorded in the civil registry of the residence of the parties to the subsequent marriage at the instance of any interested person, with due notice to the spouses of the subsequent marriage and without prejudice to the fact of reappearance being judicially determined in case such fact is disputed. (n)

**Article 43.** The termination of the subsequent marriage referred to in the preceding Article shall produce the following effects:

(1) The children of the subsequent marriage conceived prior to its termination shall be considered legitimate;

(2) The absolute community of property or the conjugal partnership, as the case may be, shall be dissolved and liquidated, but if either spouse contracted said marriage in bad faith, his or her share of the net profits of the community property or conjugal partnership property shall be forfeited in favor of the common children or, if there are none, the children of the guilty spouse by a previous marriage or in default of children, the innocent spouse;

(3) Donations by reason of marriage shall remain valid, except that if the donee contracted the marriage in bad faith, such donations made to said donee are revoked by operation of law;

(4) The innocent spouse may revoke the designation of the other spouse who acted in bad faith as beneficiary in any insurance policy, even if such designation be stipulated as irrevocable; and

(5) The spouse who contracted the subsequent marriage in bad faith shall be disqualified to inherit from the innocent spouse by testate and intestate succession. (n)

**Article 44.** If both spouses of the subsequent marriage acted in bad faith, said marriage shall be void ab initio and all donations by reason of marriage and testamentary dispositions made by one in favor of the other are revoked by operation of law. (n)

**Article 45.** A marriage may be annulled for any of the following causes, existing at the time of the marriage:

(1) That the party in whose behalf it is sought to have the marriage annulled was eighteen years of age or over but below twenty-one, and the marriage was solemnized without the consent of the parents, guardian or person having substitute parental authority over the party, in that order, unless after attaining the age of twenty-one, such party freely cohabited with the other and both lived together as husband and wife;

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

(3) That the consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband and wife;

(4) That the consent of either party was obtained by force, intimidation or undue influence, unless the same having disappeared or ceased, such party thereafter freely cohabited with the other as husband and wife;

(5) That either party was physically incapable of consummating the marriage with the other, and such incapacity continues and appears to be incurable; or

(6) That either party was afflicted with a sexually-transmissible disease found to be serious and appears to be incurable. (85a)

**Article 46.** Any of the following circumstances shall constitute fraud referred to in Number 3 of the preceding Article:

(1) Non-disclosure of a previous conviction by final judgment of the other party of a crime involving moral turpitude;

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

(3) Concealment of sexually transmissible disease, regardless of its nature, existing at the time of the marriage; or

(4) Concealment of drug addiction, habitual alcoholism or homosexuality or lesbianism existing at the time of the marriage.

No other misrepresentation or deceit as to character, health, rank, fortune or chastity shall constitute such fraud as will give grounds for action for the annulment of marriage. (86a)

**Article 47.** The action for annulment of marriage must be filed by the following persons and within the periods indicated herein:

(1) For causes mentioned in number 1 of Article 45 by the party whose parent or guardian did not give his or her consent, within five years after attaining the age of twenty-one, or by the parent or guardian or person having legal charge of the minor, at any time before such party has reached the age of twenty-one;

(2) For causes mentioned in number 2 of Article 45, by the same spouse, who had no knowledge of the other's insanity; or by any relative or guardian or person having legal charge of the insane, at any time before the death of either party, or by the insane spouse during a lucid interval or after regaining sanity;

(3) For causes mentioned in number 3 of Articles 45, by the injured party, within five years after the discovery of the fraud;

(4) For causes mentioned in number 4 of Article 45, by the injured party, within five years from the time the force, intimidation or undue influence disappeared or ceased;

(5) For causes mentioned in number 5 and 6 of Article 45, by the injured party, within five years after the marriage. (87a)

**Article 48.** In all cases of annulment or declaration of absolute nullity of marriage, the Court shall order the prosecuting attorney or fiscal assigned to it to appear on behalf of the State to take steps to prevent collusion between the parties and to take care that evidence is not fabricated or suppressed.

In the cases referred to in the preceding paragraph, no judgment shall be based upon a stipulation of facts or confession of judgment. (88a)

**Article 49.** During the pendency of the action and in the absence of adequate provisions in a written agreement between the spouses, the Court shall provide for the support of the spouses and the custody and support of their common children. The Court shall give paramount consideration to the moral and material welfare of said children and their choice of the parent with whom they wish to remain as provided to in Title IX. It shall also provide for appropriate visitation rights of the other parent. (n)

**Article 50.** The effects provided for by paragraphs (2), (3), (4) and (5) of Article 43 and by Article 44 shall also apply in the proper cases to marriages which are declared ab initio or annulled by final judgment under Articles 40 and 45.

The final judgment in such cases shall provide for the liquidation, partition and distribution of the properties of the spouses, the custody and support of the common children, and the delivery of third presumptive legitimes, unless such matters had been adjudicated in previous judicial proceedings.

All creditors of the spouses as well as of the absolute community or the conjugal partnership shall be notified of the proceedings for liquidation.

In the partition, the conjugal dwelling and the lot on which it is situated, shall be adjudicated in accordance with the provisions of Articles 102 and 129.

**Article 51.** In said partition, the value of the presumptive legitimes of all common children, computed as of the date of the final judgment of the trial court, shall be delivered in cash, property or sound securities, unless the parties, by mutual agreement judicially approved, had already provided for such matters.

The children or their guardian or the trustee of their property may ask for the enforcement of the judgment.

The delivery of the presumptive legitimes herein prescribed shall in no way prejudice the ultimate successional rights of the children accruing upon the death of either of both of the parents; but the value of the properties already received under the decree of annulment or absolute nullity shall be considered as advances on their legitime. (n)

**Article 52.** The judgment of annulment or of absolute nullity of the marriage, the partition and distribution of the properties of the spouses and the delivery of the children's presumptive legitimes shall be recorded in the appropriate civil registry and registries of property; otherwise, the same shall not affect third persons. (n)

**Article 53.** Either of the former spouses may marry again after compliance with the requirements of the immediately preceding Article; otherwise, the subsequent marriage shall be null and void.

**Article 54.** Children conceived or born before the judgment of annulment or absolute nullity of the marriage under Article 36 has become final and executory shall be considered legitimate. Children conceived or born of the subsequent marriage under Article 53 shall likewise be legitimate.

## TITLE II
## LEGAL SEPARATION

**Article 55.** A petition for legal separation may be filed on any of the following grounds:

(1) Repeated physical violence or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner;

(2) Physical violence or moral pressure to compel the petitioner to change religious or political affiliation;

(3) Attempt of respondent to corrupt or induce the petitioner, a common child, or a child of the petitioner, to engage in prostitution, or connivance in such corruption or inducement;

(4) Final judgment sentencing the respondent to imprisonment of more than six years, even if pardoned;

(5) Drug addiction or habitual alcoholism of the respondent;

(6) Lesbianism or homosexuality of the respondent;

(7) Contracting by the respondent of a subsequent bigamous marriage, whether in the Philippines or abroad;

(8) Sexual infidelity or perversion;

(9) Attempt by the respondent against the life of the petitioner; or

(10) Abandonment of petitioner by respondent without justifiable cause for more than one year.

For purposes of this Article, the term "child" shall include a child by nature or by adoption. (9a)

**Article 56.** The petition for legal separation shall be denied on any of the following grounds:

(1) Where the aggrieved party has condoned the offense or act complained of;

(2) Where the aggrieved party has consented to the commission of the offense or act complained of;

(3) Where there is connivance between the parties in the commission of the offense or act constituting the ground for legal separation;

(4) Where both parties have given ground for legal separation;

(5) Where there is collusion between the parties to obtain decree of legal separation; or

(6) Where the action is barred by prescription. (100a)

**Article 57.** An action for legal separation shall be filed within five years from the time of the occurrence of the cause. (102)

**Article 58.** An action for legal separation shall in no case be tried before six months shall have elapsed since the filing of the petition. (103)

**Article 59.** No legal separation may be decreed unless the Court has taken steps toward the reconciliation of the spouses and is fully satisfied, despite such efforts, that reconciliation is highly improbable. (n)

**Article 60.** No decree of legal separation shall be based upon a stipulation of facts or a confession of judgment.

In any case, the Court shall order the prosecuting attorney or fiscal assigned to it to take steps to prevent collusion between the parties and to take care that the evidence is not fabricated or suppressed. (101a)

**Article 61.** After the filing of the petition for legal separation, the spouses shall be entitled to live separately from each other.

The court, in the absence of a written agreement between the spouses, shall designate either of them or a third person to administer the absolute community or conjugal partnership property. The administrator appointed by the court shall have the same powers and duties as those of a guardian under the Rules of Court. (104a)

**Article 62.** During the pendency of the action for legal separation, the provisions of Article 49 shall likewise apply to the support of the spouses and the custody and support of the common children. (105a)

**Article 63.** The decree of legal separation shall have the following effects:

(1) The spouses shall be entitled to live separately from each other, but the marriage bonds shall not be severed;

(2) The absolute community or the conjugal partnership shall be dissolved and liquidated but the offending spouse shall have no right to any share of the net profits earned by the absolute community or the conjugal partnership, which shall be forfeited in accordance with the provisions of Article 43(2);

(3) The custody of the minor children shall be awarded to the innocent spouse, subject to the provisions of Article 213 of this Code; and

(4) The offending spouse shall be disqualified from inheriting from the innocent spouse by intestate succession. Moreover, provisions in favor of the offending spouse made in the will of the innocent spouse shall be revoked by operation of law. (106a)

**Article 64.** After the finality of the decree of legal separation, the innocent spouse may revoke the donations made by him or by her in favor of the offending spouse, as well as the designation of the latter as beneficiary in any insurance policy, even if such designation be stipulated as irrevocable. The revocation of the donations shall be recorded in the registries of property in the places where the properties are located. Alienations, liens and encumbrances registered in good faith before the recording of the complaint for revocation in the registries of property shall be respected. The revocation of or change in the designation of the insurance beneficiary shall take effect upon written notification thereof to the insured.

The action to revoke the donation under this Article must be brought within five years from the time the decree of legal separation become final. (107a)

**Article 65.** If the spouses should reconcile, a corresponding joint manifestation under oath duly signed by them shall be filed with the court in the same proceeding for legal separation. (n)

**Article 66.** The reconciliation referred to in the preceding Articles shall have the following consequences:

(1) The legal separation proceedings, if still pending, shall thereby be terminated at whatever stage; and

(2) The final decree of legal separation shall be set aside, but the separation of property and any forfeiture of the share of the guilty spouse already effected shall subsist, unless the spouses agree to revive their former property regime.

The court's order containing the foregoing shall be recorded in the proper civil registries. (108a)

**Article 67.** The agreement to revive the former property regime referred to in the preceding Article shall be executed under oath and shall specify:

(1) The properties to be contributed anew to the restored regime;

(2) Those to be retained as separated properties of each spouse; and

(3) The names of all their known creditors, their addresses and the amounts owing to each.

The agreement of revival and the motion for its approval shall be filed with the court in the same proceeding for legal separation, with copies of both furnished to the creditors named therein. After due hearing, the court shall, in its order, take measure to protect the interest of creditors and such order shall be recorded in the proper registries of properties.

The recording of the ordering in the registries of property shall not prejudice any creditor not listed or not notified, unless the debtor-spouse has sufficient separate properties to satisfy the creditor's claim. (195a, 108a)

## TITLE III
## RIGHTS AND OBLIGATIONS BETWEEN HUSBAND AND WIFE

**Article 68.** The husband and wife are obliged to live together, observe mutual love, respect and fidelity, and render mutual help and support. (109a)

**Article 69.** The husband and wife shall fix the family domicile. In case of disagreement, the court shall decide.

The court may exempt one spouse from living with the other if the latter should live abroad or there are other valid and compelling reasons for the exemption. However, such exemption shall not apply if the same is not compatible with the solidarity of the family. (110a)

**Article 70.** The spouses are jointly responsible for the support of the family. The expenses for such support and other conjugal obligations shall be paid from the community property and, in the absence thereof, from the income or fruits of their separate properties. In case of insufficiency or absence of said income or fruits, such obligations shall be satisfied from the separate properties. (111a)

**Article 71.** The management of the household shall be the right and the duty of both spouses. The expenses for such management shall be paid in accordance with the provisions of Article 70. (115a)

**Article 72.** When one of the spouses neglects his or her duties to the conjugal union or commits acts which tend to bring danger, dishonor or injury to the other or to the family, the aggrieved party may apply to the court for relief. (116a)

**Article 73.** Either spouse may exercise any legitimate profession, occupation, business or activity without the consent of the other. The latter may object only on valid, serious, and moral grounds.

In case of disagreement, the court shall decide whether or not:

(1) The objection is proper, and

(2) Benefit has occurred to the family prior to the objection or thereafter. If the benefit accrued prior to the objection, the resulting obligation shall be enforced against the separate property of the spouse who has not obtained consent.

The foregoing provisions shall not prejudice the rights of creditors who acted in good faith. (117a)

## TITLE IV
## PROPERTY RELATIONS BETWEEN HUSBAND AND WIFE

### Chapter 1. General Provisions

**Article 74.** The property relationship between husband and wife shall be governed in the following order:

(1) By marriage settlements executed before the marriage;

(2) By the provisions of this Code; and

(3) By the local custom. (118)

**Article 75.** The future spouses may, in the marriage settlements, agree upon the regime of absolute community, conjugal partnership of gains, complete separation of property, or any other regime. In the absence of a marriage settlement, or when the regime agreed upon is void, the system of absolute community of property as established in this Code shall govern. (119a)

**Article 76.** In order that any modification in the marriage settlements may be valid, it must be made before the celebration of the marriage, subject to the provisions of Articles 66, 67, 128, 135 and 136. (121)

**Article 77.** The marriage settlements and any modification thereof shall be in writing, signed by the parties and executed before the celebration of the marriage. They shall not prejudice third persons unless they are registered in the local civil registry where the marriage contract is recorded as well as in the proper registries of properties. (122a)

**Article 78.** A minor who according to law may contract marriage may also execute his or her marriage settlements, but they shall be valid only if the persons designated in Article 14 to give consent to the marriage are made parties to the agreement, subject to the provisions of Title IX of this Code. (120a)

**Article 79.** For the validity of any marriage settlement executed by a person upon whom a sentence of civil interdiction has been pronounced or who is subject to any other disability, it shall be indispensable for the guardian appointed by a competent court to be made a party thereto. (123a)

**Article 80.** In the absence of a contrary stipulation in a marriage settlement, the property relations of the spouses shall be governed by Philippine laws, regardless of the place of the celebration of the marriage and their residence.

This rule shall not apply:

(1) Where both spouses are aliens;

(2) With respect to the extrinsic validity of contracts affecting property not situated in the Philippines and executed in the country where the property is located; and

(3) With respect to the extrinsic validity of contracts entered into in the Philippines but affecting property situated in a foreign country whose laws require different formalities for its extrinsic validity. (124a)

**Article 81.** Everything stipulated in the settlements or contracts referred to in the preceding articles in consideration of a future marriage, including donations between the prospective spouses made therein, shall be rendered void if the marriage does not take place. However, stipulations that do not depend upon the celebration of the marriages shall be valid. (125a)

## Chapter 2. Donations by Reason of Marriage

**Article 82.** Donations by reason of marriage are those which are made before its celebration, in consideration of the same, and in favor of one or both of the future spouses. (126)

**Article 83.** These donations are governed by the rules on ordinary donations established in Title III of Book III of the Civil Code, insofar as they are not modified by the following articles. (127a)

**Article 84.** If the future spouses agree upon a regime other than the absolute community of property, they cannot donate to each other in their marriage settlements more than one-fifth of their present property. Any excess shall be considered void.

Donations of future property shall be governed by the provisions on testamentary succession and the formalities of wills. (130a)

**Article 85.** Donations by reason of marriage of property subject to encumbrances shall be valid. In case of foreclosure of the encumbrance and the property is sold for less than the total amount of the obligation secured, the donee shall not be liable for the deficiency. If the property is sold for more than the total amount of said obligation, the donee shall be entitled to the excess. (131a)

**Article 86.** A donation by reason of marriage may be revoked by the donor in the following cases:

(1) If the marriage is not celebrated or judicially declared void ab initio except donations made in the marriage settlements, which shall be governed by Article 81;

(2) When the marriage takes place without the consent of the parents or guardian, as required by law;

(3) When the marriage is annulled, and the donee acted in bad faith;

(4) Upon legal separation, the donee being the guilty spouse;

(5) If it is with a resolutory condition and the condition is complied with;

(6) When the donee has committed an act of ingratitude as specified by the provisions of the Civil Code on donations in general. (132a)

**Article 87.** Every donation or grant of gratuitous advantage, direct or indirect, between the spouses during the marriage shall be void, except moderate gifts which the spouses may give each other on the occasion of any family rejoicing. The prohibition shall also apply to persons living together as husband and wife without a valid marriage. (133a)

## Chapter 3. System of Absolute Community

### Section 1. General Provisions

**Article 88.** The absolute community of property between spouses shall commence at the precise moment that the marriage is celebrated. Any stipulation, express or implied, for the commencement of the community regime at any other time shall be void. (145a)

**Article 89.** No waiver of rights, shares and effects of the absolute community of property during the marriage can be made except in case of judicial separation of property.

When the waiver takes place upon a judicial separation of property, or after the marriage has been dissolved or annulled, the same shall appear in a public instrument and shall be recorded as provided in Article 77. The creditors of the spouse who made such waiver may petition the court to rescind the waiver to the extent of the amount sufficient to cover the amount of their credits. (146a)

**Article 90.** The provisions on co-ownership shall apply to the absolute community of property between the spouses in all matters not provided for in this Chapter. (n)

### Section 2. What Constitutes Community Property

**Article 91.** Unless otherwise provided in this Chapter or in the marriage settlements, the community property shall consist of all the property owned by the spouses at the time of the celebration of the marriage or acquired thereafter. (197a)

**Article 92.** The following shall be excluded from the community property:

(1) Property acquired during the marriage by gratuitous title by either spouse, and the fruits as well as the income thereof, if any, unless it is expressly provided by the donor, testator or grantor that they shall form part of the community property;

(2) Property for personal and exclusive use of either spouse. However, jewelry shall form part of the community property;

(3) Property acquired before the marriage by either spouse who has legitimate descendants by a former marriage, and the fruits as well as the income, if any, of such property. (201a)

**Article 93.** Property acquired during the marriage is presumed to belong to the community, unless it is proved that it is one of those excluded therefrom. (160)

### Section 3. Charges and Obligations of the Absolute Community

**Article 94.** The absolute community of property shall be liable for:

(1) The support of the spouses, their common children, and legitimate children of either spouse; however, the support of illegitimate children shall be governed by the provisions of this Code on Support;

(2) All debts and obligations contracted during the marriage by the designated administrator-spouse for the benefit of the community, or by both spouses, or by one spouse with the consent of the other;

(3) Debts and obligations contracted by either spouse without the consent of the other to the extent that the family may have been benefited;

(4) All taxes, liens, charges and expenses, including major or minor repairs, upon the community property;

(5) All taxes and expenses for mere preservation made during marriage upon the separate property of either spouse used by the family;

(6) Expenses to enable either spouse to commence or complete a professional or vocational course, or other activity for self-improvement;

(7) Antenuptial debts of either spouse insofar as they have redounded to the benefit of the family;

(8) The value of what is donated or promised by both spouses in favor of their common legitimate children for the exclusive purpose of commencing or completing a professional or vocational course or other activity for self-improvement;

(9) Antenuptial debts of either spouse other than those falling under paragraph (7) of this Article, the support of illegitimate children of either spouse, and liabilities incurred by either spouse by reason of a crime or a quasi-delict, in case of absence or insufficiency of the exclusive property of the debtor-spouse, the payment of which shall be considered as advances to be deducted from the share of the debtor-spouse upon liquidation of the community; and

(10) Expenses of litigation between the spouses unless the suit is found to be groundless.

If the community property is insufficient to cover the foregoing liabilities, except those falling under paragraph (9), the spouses shall be solidarily liable for the unpaid balance with their separate properties. (161a, 162a, 163a, 202a-205a)

**Article 95.** Whatever may be lost during the marriage in any game of chance, betting, sweepstakes, or any other kind of gambling, whether permitted or prohibited by law, shall be borne by the loser and shall not be charged to the community but any winnings therefrom shall form part of the community property. (164a)

### Section 4. Ownership, Administrative, Enjoyment and Disposition of the Community Property

**Article 96.** The administration and enjoyment of the community property shall belong to both spouses jointly. In case of disagreement, the husband's decision shall prevail, subject to recourse to the court by the wife for proper remedy, which must be availed of within five years from the date of the contract implementing such decision.

In the event that one spouse is incapacitated or otherwise unable to participate in the administration of the common properties, the other spouse may assume sole powers of administration. These powers do not include disposition or encumbrance without authority of the court or the written consent of the other spouse. In the absence of such authority or consent, the disposition or encumbrance shall be void. However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors. (206a)

**Article 97.** Either spouse may dispose by will of his or her interest in the community property. (n)

**Article 98.** Neither spouse may donate any community property without the consent of the other. However, either spouse may, without the consent of the other, make moderate donations from the community property for charity or on occasions of family rejoicing or family distress. (n)

### Section 5. Dissolution of Absolute Community Regime

**Article 99.** The absolute community terminates:

(1) Upon the death of either spouse;

(2) When there is a decree of legal separation;

(3) When the marriage is annulled or declared void; or

(4) In case of judicial separation of property during the marriage under Article 134 to 138. (175a)

**Article 100.** The separation in fact between husband and wife shall not affect the regime of absolute community except that:

(1) The spouse who leaves the conjugal home or refuses to live therein, without just cause, shall not have the right to be supported;

(2) When the consent of one spouse to any transaction of the other is required by law, judicial authorization shall be obtained in a summary proceeding;

(3) In the absence of sufficient community property, the separate property of both spouses shall be solidarily liable for the support of the family. The spouse present shall, upon proper petition in a summary proceeding, be given judicial authority to administer or encumber any specific separate property of the other spouse and use the fruits or proceeds thereof to satisfy the latter's share. (178a)

**Article 101.** If a spouse without just cause abandons the other or fails to comply with his or her obligations to the family, the aggrieved spouse may petition the court for receivership, for judicial separation of property or for authority to be the sole administrator of the absolute community, subject to such precautionary conditions as the court may impose.

The obligations to the family mentioned in the preceding paragraph refer to marital, parental or property relations.

A spouse is deemed to have abandoned the other when her or she has left the conjugal dwelling without intention of returning. The spouse who has left the conjugal dwelling for a period of three months or has failed within the same period to give any information as to his or her whereabouts shall be prima facie presumed to have no intention of returning to the conjugal dwelling. (178a)

### Section 6. Liquidation of the Absolute Community Assets and Liabilities

**Article 102.** Upon dissolution of the absolute community regime, the following procedure shall apply:

(1) An inventory shall be prepared, listing separately all the properties of the absolute community and the exclusive properties of each spouse.

(2) The debts and obligations of the absolute community shall be paid out of its assets. In case of insufficiency of said assets, the spouses shall be solidarily liable for the unpaid balance with their separate properties in accordance with the provisions of the second paragraph of Article 94.

(3) Whatever remains of the exclusive properties of the spouses shall thereafter be delivered to each of them.

(4) The net remainder of the properties of the absolute community shall constitute its net assets, which shall be divided equally between husband and wife, unless a different proportion or division was agreed upon in the marriage settlements, or unless there has been a voluntary waiver of such share provided in this Code. For purpose of computing the net profits subject to forfeiture in accordance with Articles 43, No. (2) and 63, No. (2), the said profits shall be the increase in value between the market value of the community property at the time of the celebration of the marriage and the market value at the time of its dissolution.

(5) The presumptive legitimes of the common children shall be delivered upon partition, in accordance with Article 51.

(6) Unless otherwise agreed upon by the parties, in the partition of the properties, the conjugal dwelling and the lot on which it is situated shall be adjudicated to the spouse with whom the majority of the common children choose to remain. Children below the age of seven years are deemed to have chosen the mother, unless the court has decided otherwise. In case there in no such majority, the court shall decide, taking into consideration the best interests of said children. (n)

**Article 103.** Upon the termination of the marriage by death, the community property shall be liquidated in the same proceeding for the settlement of the estate of the deceased.

If no judicial settlement proceeding is instituted, the surviving spouse shall liquidate the community property either judicially or extra-judicially within six months from the death of the deceased spouse. If upon the lapse of the six months period, no liquidation is made, any disposition or encumbrance involving the community property of the terminated marriage shall be void.

Should the surviving spouse contract a subsequent marriage without compliance with the foregoing requirements, a mandatory regime of complete separation of property shall govern the property relations of the subsequent marriage. (n)

**Article 104.** Whenever the liquidation of the community properties of two or more marriages contracted by the same person before the effectivity of this Code is carried out simultaneously, the respective capital, fruits and income of each community shall be determined upon such proof as may be considered according to the rules of evidence. In case of doubt as to which community the existing properties belong, the same shall be divided between the different communities in proportion to the capital and duration of each. (189a)

## Chapter 4. Conjugal Partnership of Gains

### Section 1. General Provisions

**Article 105.** In case the future spouses agree in the marriage settlements that the regime of conjugal partnership gains shall govern their property relations during marriage, the provisions in this Chapter shall be of supplementary application.

The provisions of this Chapter shall also apply to conjugal partnerships of gains already established between spouses before the effectivity of this Code, without prejudice to vested rights already acquired in accordance with the Civil Code or other laws, as provided in Article 256. (n)

**Article 106.** Under the regime of conjugal partnership of gains, the husband and wife place in a common fund the proceeds, products, fruits and income from their separate properties and those acquired by either or both spouses through their efforts or by chance, and, upon dissolution of the marriage or of the partnership, the net gains or benefits obtained by either or both spouses shall be divided equally between them, unless otherwise agreed in the marriage settlements. (142a)

**Article 107.** The rules provided in Articles 88 and 89 shall also apply to conjugal partnership of gains. (n)

**Article 108.** The conjugal partnership shall be governed by the rules on the contract of partnership in all that is not in conflict with what is expressly determined in this Chapter or by the spouses in their marriage settlements. (147a)

### Section 2. Exclusive Property of Each Spouse

**Article 109.** The following shall be the exclusive property of each spouse:

(1) That which is brought to the marriage as his or her own;

(2) That which each acquires during the marriage by gratuitous title;

(3) That which is acquired by right of redemption, by barter or by exchange with property belonging to only one of the spouses; and

(4) That which is purchased with exclusive money of the wife or of the husband. (148a)

**Article 110.** The spouses retain the ownership, possession, administration and enjoyment of their exclusive properties.

Either spouse may, during the marriage, transfer the administration of his or her exclusive property to the other by means of a public instrument, which shall be recorded in the registry of property of the place the property is located. (137a, 168a, 169a)

**Article 111.** A spouse of age may mortgage, encumber, alienate or otherwise dispose of his or her exclusive property, without the consent of the other spouse, and appear alone in court to litigate with regard to the same. (n)

**Article 112.** The alienation of any exclusive property of a spouse administered by the other automatically terminates the administration over such property and the proceeds of the alienation shall be turned over to the owner-spouse. (n)

**Article 113.** Property donated or left by will to the spouses, jointly and with designation of determinate shares, shall pertain to the donee-spouses as his or her own exclusive property, and in the absence of designation, share and share alike, without prejudice to the right of accretion when proper. (150a)

**Article 114.** If the donations are onerous, the amount of the charges shall be borne by the exclusive property of the donee spouse, whenever they have been advanced by the conjugal partnership of gains. (151a)

**Article 115.** Retirement benefits, pensions, annuities, gratuities, usufructs and similar benefits shall be governed by the rules on gratuitous or onerous acquisitions as may be proper in each case. (n)

### Section 3. Conjugal Partnership Property

**Article 116.** All property acquired during the marriage, whether the acquisition appears to have been made, contracted or registered in the name of one or both spouses, is presumed to be conjugal unless the contrary is proved. (160a)

**Article 117.** The following are conjugal partnership properties:

(1) Those acquired by onerous title during the marriage at the expense of the common fund, whether the acquisition be for the partnership, or for only one of the spouses;

(2) Those obtained from the labor, industry, work or profession of either or both of the spouses;

(3) The fruits, natural, industrial, or civil, due or received during the marriage from the common property, as well as the net fruits from the exclusive property of each spouse;

(4) The share of either spouse in the hidden treasure which the law awards to the finder or owner of the property where the treasure is found;

(5) Those acquired through occupation such as fishing or hunting;

(6) Livestock existing upon the dissolution of the partnership in excess of the number of each kind brought to the marriage by either spouse; and

(7) Those which are acquired by chance, such as winnings from gambling or betting. However, losses therefrom shall be borne exclusively by the loser-spouse. (153a, 154a, 155, 159)

**Article 118.** Property bought on installments paid partly from exclusive funds of either or both spouses and partly from conjugal funds belongs to the buyer or buyers if full ownership was vested before the marriage and to the conjugal partnership if such ownership was vested during the marriage. In either case, any amount advanced by the partnership or by either or both spouses shall be reimbursed by the owner or owners upon liquidation of the partnership. (n)

**Article 119.** Whenever an amount or credit payable within a period of time belongs to one of the spouses, the sums which may be collected during the marriage in partial payments or by installments on the principal shall be the exclusive property of the spouse. However, interests falling due during the marriage on the principal shall belong to the conjugal partnership. (156a, 157a)

**Article 120.** The ownership of improvements, whether for utility or adornment, made on the separate property of the spouses at the expense of the partnership or through the acts or efforts of either or both spouses shall pertain to the conjugal partnership, or to the original owner-spouse, subject to the following rules:

When the cost of the improvement made by the conjugal partnership and any resulting increase in value are more than the value of the property at the time of the improvement, the entire property of one of the spouses shall belong to the conjugal partnership, subject to reimbursement of the value of the property of the owner-spouse at the time of the improvement; otherwise, said property shall be retained in ownership by the owner-spouse, likewise subject to reimbursement of the cost of the improvement.

In either case, the ownership of the entire property shall be vested upon the reimbursement, which shall be made at the time of the liquidation of the conjugal partnership. (158a)

### Section 4. Charges Upon and Obligations of the Conjugal Partnership

**Article 121.** The conjugal partnership shall be liable for:

(1) The support of the spouse, their common children, and the legitimate children of either spouse; however, the support of illegitimate children shall be governed by the provisions of this Code on Support;

(2) All debts and obligations contracted during the marriage by the designated administrator-spouse for the benefit of the conjugal partnership of gains, or by both spouses or by one of them with the consent of the other;

(3) Debts and obligations contracted by either spouse without the consent of the other to the extent that the family may have benefited;

(4) All taxes, liens, charges, and expenses, including major or minor repairs upon the conjugal partnership property;

(5) All taxes and expenses for mere preservation made during the marriage upon the separate property of either spouse;

(6) Expenses to enable either spouse to commence or complete a professional, vocational, or other activity for self-improvement;

(7) Antenuptial debts of either spouse insofar as they have redounded to the benefit of the family;

(8) The value of what is donated or promised by both spouses in favor of their common legitimate children for the exclusive purpose of commencing or completing a professional or vocational course or other activity for self-improvement; and

self-improvement; and

(9) Expenses of litigation between the spouses unless the suit is found to groundless.

If the conjugal partnership is insufficient to cover the foregoing liabilities, the spouses shall be solidarily liable for the unpaid balance with their separate properties. (161a)

**Article 122.** The payment of personal debts contracted by the husband or the wife before or during the marriage shall not be charged to the conjugal properties partnership except insofar as they redounded to the benefit of the family.

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

However, the payment of personal debts contracted by either spouse before the marriage, that of fines and indemnities imposed upon them, as well as the support of illegitimate children of either spouse, may be enforced against the partnership assets after the responsibilities enumerated in the preceding Article have been covered, if the spouse who is bound should have no exclusive property or if it should be insufficient; but at the time of the liquidation of the partnership, such spouse shall be charged for what has been paid for the purpose above-mentioned. (163a)

**Article 123.** Whatever may be lost during the marriage in any game of chance or in betting, sweepstakes, or any other kind of gambling whether permitted or prohibited by law, shall be borne by the loser and shall not be charged to the conjugal partnership but any winnings therefrom shall form part of the conjugal partnership property. (164a)

### Section 5. Administration of the Conjugal Partnership Property

**Article 124.** The administration and enjoyment of the conjugal partnership shall belong to both spouses jointly. In case of disagreement, the husband's decision shall prevail, subject to recourse to the court by the wife for proper remedy, which must be availed of within five years from the date of the contract implementing such decision.

In the event that one spouse is incapacitated or otherwise unable to participate in the administration of the conjugal properties, the other spouse may assume sole powers of administration. These powers do not include disposition or encumbrance without authority of the court or the written consent of the other spouse. In the absence of such authority or consent, the disposition or encumbrance shall be void. However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors. (165a)

**Article 125.** Neither spouse may donate any conjugal partnership property without the consent of the other. However, either spouse may, without the consent of the other, make moderate donations from the conjugal partnership property for charity or on occasions of family rejoicing or family distress. (174a)

### Section 6. Dissolution of Conjugal Partnership Regime

**Article 126.** The conjugal partnership terminates:

(1) Upon the death of either spouse;

(2) When there is a decree of legal separation;

(3) When the marriage is annulled or declared void; or

(4) In case of judicial separation of property during the marriage under Articles 134 to 138 (175a)

**Article 127.** The separation in fact between husband and wife shall not affect the regime of conjugal partnership, except that:

(1) The spouse who leaves the conjugal home or refuses to live therein, without just cause, shall not have the right to be supported;

(2) When the consent of one spouse to any transaction of the other is required by law, judicial authorization shall be obtained in a summary proceeding;

(3) In the absence of sufficient conjugal partnership property, the separate property of both spouses shall be solidarily liable for the support of the family. The spouse present shall, upon petition in a summary proceeding, be given judicial authority to administer or encumber any specific separate property of the other spouse and use the fruits or proceeds thereof to satisfy the latter's share. (178a)

**Article 128.** If a spouse without just cause abandons the other or fails to comply with his or her obligation to the family, the aggrieved spouse may petition the court for receivership, for judicial separation of property, or for authority to be the sole administrator of the conjugal partnership property, subject to such precautionary conditions as the court may impose.

The obligations to the family mentioned in the preceding paragraph refer to marital, parental or property relations.

A spouse is deemed to have abandoned the other when he or she has left the conjugal dwelling without intention of returning. The spouse who has left the conjugal dwelling for a period of three months or has failed within the same period to give any information as to his or her whereabouts shall be prima facie presumed to have no intention of returning to the conjugal dwelling. (167a, 191a)

### Section 7. Liquidation of the Conjugal Partnership Assets and Liabilities

**Article 129.** Upon the dissolution of the conjugal partnership regime, the following procedure shall apply:

(1) An inventory shall be prepared, listing separately all the properties of the conjugal partnership and the exclusive properties of each spouse.

(2) Amounts advanced by the conjugal partnership in payment of personal debts and obligations of either spouse shall be credited to the conjugal partnership as an asset thereof.

(3) Each spouse shall be reimbursed for the use of his or her exclusive funds in the acquisition of property or for the value of his or her exclusive property, the ownership of which has been vested by law in the conjugal partnership.

(4) The debts and obligations of the conjugal partnership shall be paid out of the conjugal assets. In case of insufficiency of said assets, the spouses shall be solidarily liable for the unpaid balance with their separate properties, in accordance with the provisions of paragraph (2) of Article 121.

(5) Whatever remains of the exclusive properties of the spouses shall thereafter be delivered to each of them.

(6) Unless the owner had been indemnified from whatever source, the loss or deterioration of movables used for the benefit of the family, belonging to either spouse, even due to fortuitous event, shall be paid to said spouse from the conjugal funds, if any.

(7) The net remainder of the conjugal partnership properties shall constitute the profits, which shall be divided equally between husband and wife, unless a different proportion or division was agreed upon in the marriage settlements or unless there has been a voluntary waiver or forfeiture of such share as provided in this Code.

(8) The presumptive legitimes of the common children shall be delivered upon the partition in accordance with Article 51.

(9) In the partition of the properties, the conjugal dwelling and the lot on which it is situated shall, unless otherwise agreed upon by the parties, be adjudicated to the spouse with whom the majority of the common children choose to remain. Children below the age of seven years are deemed to have chosen the mother, unless the court has decided otherwise. In case there is no such majority, the court shall decide, taking into consideration the best interests of said children. (181a, 182a, 183a, 184a, 185a)

**Article 130.** Upon the termination of the marriage by death, the conjugal partnership property shall be liquidated in the same proceeding for the settlement of the estate of the deceased.

If no judicial settlement proceeding is instituted, the surviving spouse shall liquidate the conjugal partnership property either judicially or extra-judicially within six months from the death of the deceased spouse. If upon the lapse of the six-month period no liquidation is made, any disposition or encumbrance involving the conjugal partnership property of the terminated marriage shall be void.

Should the surviving spouse contract a subsequent marriage without compliance with the foregoing requirements, a mandatory regime of complete separation of property shall govern the property relations of the subsequent marriage. (n)

**Article 131.** Whenever the liquidation of the conjugal partnership properties of two or more marriages contracted by the same person before the effectivity of this Code is carried out simultaneously, the respective capital, fruits and income of each partnership shall be determined upon such proof as may be considered according to the rules of evidence. In case of doubt as to which partnership the existing properties belong, the same shall be divided between the different partnerships in proportion to the capital and duration of each. (189a)

**Article 132.** The Rules of Court on the administration of estates of deceased persons shall be observed in the appraisal and sale of property of the conjugal partnership, and other matters which are not expressly determined in this Chapter. (187a)

**Article 133.** From the common mass of property support shall be given to the surviving spouse and to the children during the liquidation of the inventoried property and until what belongs to them is delivered; but from this shall be deducted that amount received for support which exceeds the fruits or rents pertaining to them. (188a)

## Chapter 5. Separation of Property of the Spouses and Administration of Common Property by One Spouse During the Marriage

**Article 134.** In the absence of an express declaration in the marriage settlements, the separation of property between spouses during the marriage shall not take place except by judicial order. Such judicial separation of property may either be voluntary or for sufficient cause. (190a)

**Article 135.** Any of the following shall be considered sufficient cause for judicial separation of property:

(1) That the spouse of the petitioner has been sentenced to a penalty which carries with it civil interdiction;

(2) That the spouse of the petitioner has been judicially declared an absentee;

(3) That loss of parental authority of the spouse of petitioner has been decreed by the court;

(4) That the spouse of the petitioner has abandoned the latter or failed to comply with his or her obligations to the family as provided for in Article 101;

(5) That the spouse granted the power of administration in the marriage settlements has abused that power; and

(6) That at the time of the petition, the spouses have been separated in fact for at least one year and reconciliation is highly improbable.

In the cases provided for in Numbers (1), (2) and (3), the presentation of the final judgment against the guilty or absent spouse shall be enough basis for the grant of the decree of judicial separation of property. (191a)

**Article 136.** The spouses may jointly file a verified petition with the court for the voluntary dissolution of the absolute community or the conjugal partnership of gains, and for the separation of their common properties.

All creditors of the absolute community or of the conjugal partnership of gains, as well as the personal creditors of the spouse, shall be listed in the petition and notified of the filing thereof. The court shall take measures to protect the creditors and other persons with pecuniary interest. (191a)

**Article 137.** Once the separation of property has been decreed, the absolute community or the conjugal partnership of gains shall be liquidated in conformity with this Code.

During the pendency of the proceedings for separation of property, the absolute community or the conjugal partnership shall pay for the support of the spouses and their children. (192a)

**Article 138.** After dissolution of the absolute community or of the conjugal partnership, the provisions on complete separation of property shall apply. (191a)

**Article 139.** The petition for separation of property and the final judgment granting the same shall be recorded in the proper local civil registries and registries of property. (193a)

**Article 140.** The separation of property shall not prejudice the rights previously acquired by creditors. (194a)

**Article 141.** The spouses may, in the same proceedings where separation of property was decreed, file a motion in court for a decree reviving the property regime that existed between them before the separation of property in any of the following instances:

(1) When the civil interdiction terminates;

(2) When the absentee spouse reappears;

(3) When the court, being satisfied that the spouse granted the power of administration in the marriage settlements will not again abuse that power, authorizes the resumption of said administration;

(4) When the spouse who has left the conjugal home without a decree of legal separation resumes common life with the other;

(5) When parental authority is judicially restored to the spouse previously deprived thereof;

(6) When the spouses who have separated in fact for at least one year, reconcile and resume common life; or

(7) When after voluntary dissolution of the absolute community of property or conjugal partnership has been judicially decreed upon the joint petition of the spouses, they agree to the revival of the former property regime. No voluntary separation of property may thereafter be granted.

The revival of the former property regime shall be governed by Article 67. (195a)

**Article 142.** The administration of all classes of exclusive property of either spouse may be transferred by the court to the other spouse:

(1) When one spouse becomes the guardian of the other;

(2) When one spouse is judicially declared an absentee;

(3) When one spouse is sentenced to a penalty which carries with it civil interdiction; or

(4) When one spouse becomes a fugitive from justice or is in hiding as an accused in a criminal case.

If the other spouse is not qualified by reason of incompetence, conflict of interest, or any other just cause, the court shall appoint a suitable person to be the administrator. (n)

### Chapter 6. Regime of Separation of Property

**Article 143.** Should the future spouses agree in the marriage settlements that their property relations during marriage shall be governed by the regime of separation of property, the provisions of this Chapter shall be suppletory. (212a)

**Article 144.** Separation of property may refer to present or future property or both. It may be total or partial. In the latter case, the property not agreed upon as separate shall pertain to the absolute community. (213a)

**Article 145.** Each spouse shall own, dispose of, possess, administer and enjoy his or her own separate estate, without need of the consent of the other. To each spouse shall belong all earnings from his or her profession, business or industry and all fruits, natural, industrial or civil, due or received during the marriage from his or her separate property. (214a)

**Article 146.** Both spouses shall bear the family expenses in proportion to their income, or, in case of insufficiency or default thereof, to the current market value of their separate properties.

The liabilities of the spouses to creditors for family expenses shall, however, be solidary. (215a)

### Chapter 7. Property Regime of Unions Without Marriage

**Article 147.** When a man and a woman who are capacitated to marry each other, live exclusively with each other as husband and wife without the benefit of marriage or under a void marriage, their wages and salaries shall be owned by them in equal shares and the property acquired by both of them through their work or industry shall be governed by the rules on co-ownership.

In the absence of proof to the contrary, properties acquired while they lived together shall be presumed to have been obtained by their joint efforts, work or industry, and shall be owned by them in equal shares. For purposes of this Article, a party who did not participate in the acquisition by the other party of any property shall be deemed to have contributed jointly in the acquisition thereof if the former's efforts consisted in the care and maintenance of the family and of the household.

Neither party can encumber or dispose by acts inter vivos of his or her share in the property acquired during cohabitation and owned in common, without the consent of the other, until after the termination of their cohabitation.

When only one of the parties to a void marriage is in good faith, the share of the party in bad faith in the co-ownership shall be forfeited in favor of their common children. In case of default of or waiver by any or all of the common children or their descendants, each vacant share shall belong to the respective surviving descendants. In the absence of descendants, such share shall belong to the innocent party. In all cases, the forfeiture shall take place upon termination of the cohabitation. (144a)

**Article 148.** In cases of cohabitation not falling under the preceding Article, only the properties acquired by both of the parties through their actual joint contribution of money, property, or industry shall be owned by them in common in proportion to their respective contributions. In the absence of proof to the contrary, their contributions and corresponding shares are presumed to be equal. The same rule and presumption shall apply to joint deposits of money and evidences of credit.

If one of the parties is validly married to another, his or her share in the co-ownership shall accrue to the absolute community or conjugal partnership existing in such valid marriage. If the party who acted in bad faith is not validly married to another, his or her shall be forfeited in the manner provided in the last paragraph of the preceding Article.

The foregoing rules on forfeiture shall likewise apply even if both parties are in both faith. (144a)

## TITLE V
## THE FAMILY

### Chapter 1. The Family as an Institution

**Article 149.** The family, being the foundation of the nation, is a basic social institution which public policy cherishes and protects. Consequently, family relations are governed by law and no custom, practice or agreement destructive of the family shall be recognized or given effect. (216a, 218a)

**Article 50.** Family relations include those:

(1) Between husband and wife;

(2) Between parents and children;

(3) Among brothers and sisters, whether of the full or halfblood. (217a)

**Article 151.** No suit between members of the same family shall prosper unless it should appear from the verified complaint or petition that earnest efforts toward a compromise have been made, but that the same have failed. If it is shown that no such efforts were in fact made, the same case must be dismissed.

This rules shall not apply to cases which may not be the subject of compromise under the Civil Code. (222a)

### Chapter 2. The Family Home

**Article 152.** The family home, constituted jointly by the husband and the wife or by an unmarried head of a family, is the dwelling house where they and their family reside, and the land on which it is situated. (223a)

**Article 153.** The family home is deemed constituted on a house and lot from the time it is occupied as a family residence. From the time of its constitution and so long as any of its beneficiaries actually resides therein, the family home continues to be such and is exempt from execution, forced sale or attachment except as hereinafter provided and to the extent of the value allowed by law. (223a)

**Article 154.** The beneficiaries of a family home are:

(1) The husband and wife, or an unmarried person who is the head of a family; and

(2) Their parents, ascendants, descendants, brothers and sisters, whether the relationship be legitimate or illegitimate, who are living in the family home and who depend upon the head of the family for legal support. (226a)

**Article 155.** The family home shall be exempt from execution, forced sale or attachment except:

(1) For nonpayment of taxes;

(2) For debts incurred prior to the constitution of the family home;

(3) For debts secured by mortgages on the premises before or after such constitution; and

(4) For debts due to laborers, mechanics, architects, builders, materialmen and others who have rendered service or furnished material for the construction of the building. (243a)

**Article 156.** The family home must be part of the properties of the absolute community or the conjugal partnership, or of the exclusive properties of either spouse with the latter's consent. It may also be constituted by an unmarried head of a family on his or her own property.

Nevertheless, property that is the subject of a conditional sale on installments where ownership is reserved by the vendor only to guarantee payment of the purchase price may be constituted as a family home. (227a, 228a)

**Article 157.** The actual value of the family home shall not exceed, at the time of its constitution, the amount of the three hundred thousand pesos in urban areas, and two hundred thousand pesos in rural areas, or such amounts as may hereafter be fixed by law.

In any event, if the value of the currency changes after the adoption of this Code, the value most favorable for the constitution of a family home shall be the basis of evaluation.

For purposes of this Article, urban areas are deemed to include chartered cities and municipalities whose annual income at least equals that legally required for chartered cities. All others are deemed to be rural areas. (231a)

**Article 158.** The family home may be sold, alienated, donated, assigned or encumbered by the owner or owners thereof with the written consent of the person constituting the same, the latter's spouse, and a majority of the beneficiaries of legal age. In case of conflict, the court shall decide. (235a)

**Article 159.** The family home shall continue despite the death of one or both spouses or of the unmarried head of the family for a period of ten years or for as long as there is a minor beneficiary, and the heirs cannot partition the same unless the court finds compelling reasons therefor. This rule shall apply regardless of whoever owns the property or constituted the family home. (238a)

**Article 160.** When a creditor whose claims is not among those mentioned in Article 155 obtains a judgment in his favor, and he has reasonable grounds to believe that the family home is actually worth more than the maximum amount fixed in Article 157, he may apply to the court which rendered the judgment for an order directing the sale of the property under execution. The court shall so order if it finds that the actual value of the family home exceeds the maximum amount allowed by law as of the time of its constitution. If the increased actual value exceeds the maximum allowed in Article 157 and results from subsequent voluntary improvements introduced by the person or persons constituting the family home, by the owner or owners of the property, or by any of the beneficiaries, the same rule and procedure shall apply.

At the execution sale, no bid below the value allowed for a family home shall be considered. The proceeds shall be applied first to the amount mentioned in Article 157, and then to the liabilities under the judgment and the costs. The excess, if any, shall be delivered to the judgment debtor. (247a, 248a)

**Article 161.** For purposes of availing of the benefits of a family home as provided for in this Chapter, a person may constitute, or be the beneficiary of, only one family home. (n)

**Article 162.** The provisions in this Chapter shall also govern existing family residences insofar as said provisions are applicable. (n)

## TITLE VI
## PATERNITY AND FILIATION

### Chapter 1. Legitimate Children

**Article 163.** The filiation of children may be by nature or by adoption. Natural filiation may be legitimate or illegitimate. (n)

**Article 164.** Children conceived or born during the marriage of the parents are legitimate.

Children conceived as a result of artificial insemination of the wife with the sperm of the husband or that of a donor or both are likewise legitimate children of the husband and his wife, provided, that both of them authorized or ratified such insemination in a written instrument executed and signed by them before the birth of the child. The instrument shall be recorded in the civil registry together with the birth certificate of the child. (55a, 258a)

**Article 165.** Children conceived and born outside a valid marriage are illegitimate, unless otherwise provided in this Code. (n)

**Article 166.** Legitimacy of a child may be impugned only on the following grounds:

(1) That it was physically impossible for the husband to have sexual intercourse with his wife within the first 120 days of the 300 days which immediately preceded the birth of the child because of:

(a) the physical incapacity of the husband to have sexual intercourse with his wife;

(b) the fact that the husband and wife were living separately in such a way that sexual intercourse was not possible; or

(c) serious illness of the husband, which absolutely prevented sexual intercourse;

(2) That it is proved that for biological or other scientific reasons, the child could not have been that of the husband, except in the instance provided in the second paragraph of Article 164; or

(3) That in case of children conceived through artificial insemination, the written authorization or ratification of either parent was obtained through mistake, fraud, violence, intimidation, or undue influence. (255a)

**Article 167.** The child shall be considered legitimate although the mother may have declared against its legitimacy or may have been sentenced as an adulteress. (256a)

**Article 168.** If the marriage is terminated and the mother contracted another marriage within three hundred days after such termination of the former marriage, these rules shall govern in the absence of proof to the contrary:

(1) A child born before one hundred eighty days after the solemnization of the subsequent marriage is considered to have been conceived during the former marriage, provided it be born within three hundred days after the termination of the former marriage;

(2) A child born after one hundred eighty days following the celebration of the subsequent marriage is considered to have been conceived during such marriage, even though it be born within the three hundred days after the termination of the former marriage. (259a)

**Article 169.** The legitimacy or illegitimacy of a child born after three hundred days following the termination of the marriage shall be proved by whoever alleges such legitimacy or illegitimacy. (261a)

**Article 170.** The action to impugn the legitimacy of the child shall be brought within one year from the knowledge of the birth or its recording in the civil register, if the husband or, in a proper case, any of his heirs, should reside in the city or municipality where the birth took place or was recorded.

If the husband or, in his default, all of his heirs do not reside at the place of birth as defined in the first paragraph or where it was recorded, the period shall be two years if they should reside in the Philippines; and three years if abroad. If the birth of the child has been concealed from or was unknown to the husband or his heirs, the period shall be counted from the discovery or knowledge of the birth of the child or of the fact of registration of said birth, whichever is earlier. (263a)

**Article 171.** The heirs of the husband may impugn the filiation of the child within the period prescribed in the preceding article only in the following cases:

(1) If the husband should died before the expiration of the period fixed for bringing his action;

(2) If he should die after the filing of the complaint without having desisted therefrom; or

(3) If the child was born after the death of the husband. (262a)

### Chapter 2. Proof of Filiation

**Article 172.** The filiation of legitimate children is established by any of the following:

(1) The record of birth appearing in the civil register or a final judgment; or

(2) An admission of legitimate filiation in a public document or a private handwritten instrument and signed by the parent concerned.

In the absence of the foregoing evidence, the legitimate filiation shall be proved by:

(1) The open and continuous possession of the status of a legitimate child; or

(2) Any other means allowed by the Rules of Court and special laws. (265a, 266a, 267a)

**Article 173.** The action to claim legitimacy may be brought by the child during his or her lifetime and shall be transmitted to the heirs should the child die during minority or in a state of insanity. In these cases, the heirs shall have a period of five years within which to institute the action.

**Article 174.** Legitimate children shall have the right:

(1) To bear the surnames of the father and the mother, in conformity with the provisions of the Civil Code on Surnames;

(2) To receive support from their parents, their ascendants, and in proper cases, their brothers and sisters, in conformity with the provisions of this Code on Support; and

(3) To be entitled to the legitimate and other successional rights granted to them by the Civil Code. (264a)

### Chapter 3. Illegitimate Children

**Article 175.** Illegitimate children may establish their illegitimate filiation in the same way and on the same evidence as legitimate children.

The action must be brought within the same period specified in Article 173, except when the action is based on the second paragraph of Article 172, in which case the action may be brought during the lifetime of the alleged parent. (289a)

**Article 176.** Illegitimate children shall use the surname and shall be under the parental authority of their mother, and shall be entitled to support in conformity with this Code. The legitime of each illegitimate child shall consist of one-half of the legitime of a legitimate child. Except for this modification, all other provisions in the Civil Code governing successional rights shall remain in force. (287a)

### Chapter 4. Legitimated Children

**Article 177.** Only children conceived and born outside of wedlock of parents who, at the time of the conception of the former, were not disqualified by any impediment to marry each other may be legitimated. (269a)

**Article 178.** Legitimation shall take place by a subsequent valid marriage between parents. The annulment of a viodable marriage shall not affect the legitimation. (270a)

**Article 179.** Legitimated children shall enjoy the same rights as legitimate children. (272a)

**Article 180.** The effects of legitimation shall retroact to the time of the child's birth. (273a)

**Article 181.** The legitimation of children who died before the celebration of the marriage shall benefit their descendants. (274)

**Article 182.** Legitimation may be impugned only by those who are prejudiced in their rights, within five years from the time their cause of action accrues. (275a)

## TITLE VII
## ADOPTION

**Article 183.** A person of age and in possession of full civil capacity and legal rights may adopt, provided he is in a position to support and care for his children, legitimate or illegitimate, in keeping with the means of the family.

Only minors may be adopted, except in the cases when the adoption of a person of majority age is allowed in this Title.

In addition, the adopter must be at least sixteen years older than the person to be adopted, unless the adopter is the parent by nature of the adopted, or is the spouse of the legitimate parent of the person to be adopted. (27a, EO 91 and PD 603)

**Article 184.** The following persons may not adopt:

(1) The guardian with respect to the ward prior to the approval of the final accounts rendered upon the termination of their guardianship relation;

(2) Any person who has been convicted of a crime involving moral turpitude;

(3) An alien, except:

(a) A former Filipino citizen who seeks to adopt a relative by consanguinity;

(b) One who seeks to adopt the legitimate child of his or her Filipino spouse; or

(c) One who is married to a Filipino citizen and seeks to adopt jointly with his or her spouse a relative by consanguinity of the latter.

Aliens not included in the foregoing exceptions may adopt Filipino children in accordance with the rules on inter-country adoptions as may be provided by law. (28a, EO 91 and PD 603)

**Article 185.** Husband and wife must jointly adopt, except in the following cases:

(1) When one spouse seeks to adopt his own illegitimate child; or

(2) When one spouse seeks to adopt the legitimate child of the other. (29a, EO 91 and PD 603)

**Article 186.** In case husband and wife jointly adopt or one spouse adopts the legitimate child of the other, joint parental authority shall be exercised by the spouses in accordance with this Code. (29a, EO and PD 603)

**Article 187.** The following may not be adopted:

(1) A person of legal age, unless he or she is a child by nature of the adopter or his or her spouse, or, prior to the adoption, said person has been consistently considered and treated by the adopter as his or her own child during minority.

(2) An alien with whose government the Republic of the Philippines has no diplomatic relations; and

(3) A person who has already been adopted unless such adoption has been previously revoked or rescinded. (30a, EO 91 and PD 603)

**Article 188.** The written consent of the following to the adoption shall be necessary:

(1) The person to be adopted, if ten years of age or over,

(2) The parents by nature of the child, the legal guardian, or the proper government instrumentality;

(3) The legitimate and adopted children, ten years of age or over, of the adopting parent or parents;

(4) The illegitimate children, ten years of age or over, of the adopting parent, if living with said parent and the latter's spouse, if any; and

(5) The spouse, if any, of the person adopting or to be adopted. (31a, EO 91 and PD 603)

**Article 189.** Adoption shall have the following effects:

(1) For civil purposes, the adopted shall be deemed to be a legitimate child of the adopters and both shall acquire the reciprocal rights and obligations arising from the relationship of parent and child, including the right of the adopted to use the surname of the adopters;

(2) The parental authority of the parents by nature over the adopted shall terminate and be vested in the adopters, except that if the adopter is the spouse of the parent by nature of the adopted, parental authority over the adopted shall be exercised jointly by both spouses; and

(3) The adopted shall remain an intestate heir of his parents and other blood relatives. (39(1)a, (3)a, PD 603)

**Article 190.** Legal or intestate succession to the estate of the adopted shall be governed by the following rules:

(1) Legitimate and illegitimate children and descendants and the surviving spouse of the adopted shall inherit from the adopted, in accordance with the ordinary rules of legal or intestate succession;

(2) When the parents, legitimate or illegitimate, or the legitimate ascendants of the adopted concur with the adopter, they shall divide the entire estate, one-half to be inherited by the parents or ascendants and the other half, by the adopters;

(3) When the surviving spouse or the illegitimate children of the adopted concur with the adopters, they shall divide the entire estate in equal shares, one-half to be inherited by the spouse or the illegitimate children of the adopted and the other half, by the adopters.

(4) When the adopters concur with the illegitimate children and the surviving spouse of the adopted, they shall divide the entire estate in equal shares, one-third to be inherited by the illegitimate children, one-third by the surviving spouse, and one-third by the adopters;

(5) When only the adopters survive, they shall inherit the entire estate; and

(6) When only collateral blood relatives of the adopted survive, then the ordinary rules of legal or intestate succession shall apply. (39(4)a, PD 603)

**Article 191.** If the adopted is a minor or otherwise incapacitated, the adoption may be judicially rescinded upon petition of any person authorized by the court or proper government instrumental acting on his behalf, on the same grounds prescribed for loss or suspension of parental authority. If the adopted is at least eighteen years of age, he may petition for judicial rescission of the adoption on the same grounds prescribed for disinheriting an ascendant. (40a, PD 603)

**Article 192.** The adopters may petition the court for the judicial rescission of the adoption in any of the following cases:

(1) If the adopted has committed any act constituting ground for disinheriting a descendant; or

(2) When the adopted has abandoned the home of the adopters during minority for at least one year, or, by some other acts, has definitely repudiated the adoption. (41a, PD 603)

**Article 193.** If the adopted minor has not reached the age of majority at the time of the judicial rescission of the adoption, the court in the same proceeding shall reinstate the parental authority of the parents by nature, unless the latter are disqualified or incapacitated, in which case the court shall appoint a guardian over the person and property of the minor. If the adopted person is physically or mentally handicapped, the court shall appoint in the same proceeding a guardian over his person or property or both.

Judicial rescission of the adoption shall extinguish all reciprocal rights and obligations between the adopters and the adopted arising from the relationship of parent and child. The adopted shall likewise lose the right to use the surnames of the adopters and shall resume his surname prior to the adoption.

The court shall accordingly order the amendment of the records in the proper registries. (42a, PD 603)

## TITLE VIII
## SUPPORT

**Article 194.** Support compromises everything indispensable for sustenance, dwelling, clothing, medical attendance, education and transportation, in keeping with the financial capacity of the family.

The education of the person entitled to be supported referred to in the preceding paragraph shall include his schooling or training for some profession, trade or vocation, even beyond the age of majority. Transportation shall include expenses in going to and from school, or to and from place of work. (290a)

**Article 105.** Subject to the provisions of the succeeding articles, the following are obliged to support each other to the whole extent set forth in the preceding article:

(1) The spouses;

(2) Legitimate ascendants and descendants;

(3) Parents and their legitimate children and the legitimate and illegitimate children of the latter;

(4) Parents and their illegitimate children and the legitimate and illegitimate children of the latter; and

(5) Legitimate brothers and sisters, whether of full or half-blood (291a)

**Article 196.** Brothers and sisters not legitimately related, whether of the full or half-blood, are likewise bound to support each other to the full extent set forth in Article 194, except only when the need for support of the brother or sister, being of age, is due to a cause imputable to the claimant's fault or negligence. (291a)

**Article 197.** In case of legitimate ascendants; descendants, whether legitimate or illegitimate; and brothers and sisters, whether legitimately or illegitimately related, only the separate property of the person obliged to give support shall be answerable provided that in case the obligor has no separate property, the absolute community or the conjugal partnership, if financially capable, shall advance the support, which shall be deducted from the share of the spouse obliged upon the liquidation of the absolute community or of the conjugal partnership. (n)

**Article 198.** During the proceedings for legal separation or for annulment of marriage, and for declaration of nullity of marriage, the spouses and their children shall be supported from the properties of the absolute community or the conjugal partnership. After the final judgment granting the petition, the obligation of mutual support between the spouses ceases. However, in case of legal separation, the court may order that the guilty spouse shall give support to the innocent one, specifying the terms of such order. (292a)

**Article 199.** Whenever two or more persons are obliged to give support, the liability shall devolve upon the following persons in the order herein provided:

(1) The spouse;

(2) The descendants in the nearest degree;

(3) The ascendants in the nearest degree; and

(4) The brothers and sisters. (294a)

**Article 200.** When the obligation to give support falls upon two or more persons, the payment of the same shall be divided between them in proportion to the resources of each.

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

When two or more recipients at the same time claim support from one and the same person legally obliged to give it, should the latter not have sufficient means to satisfy all claims, the order established in the preceding article shall be followed, unless the concurrent obligees should be the spouse and a child subject to parental authority, in which case the child shall be preferred. (295a)

**Article 201.** The amount of support, in the cases referred to in Articles 195 and 196, shall be in proportion to the resources or means of the giver and to the necessities of the recipient. (296a)

**Article 202.** Support in the cases referred to in the preceding article shall be reduced or increased proportionately, according to the reduction or increase of the necessities of the recipient and the resources or means of the person obliged to furnish the same. (297a)

**Article 203.** The obligation to give support shall be demandable from the time the person who has a right to receive the same needs it for maintenance, but it shall not be paid except from the date of judicial or extrajudicial demand.

Support pendente lite may be claimed in accordance with the Rules of Court.

Payment shall be made within the first five days of each corresponding month or when the recipient dies, his heirs shall not be obliged to return what he has received in advance. (298a)

**Article 204.** The person obliged to give support shall have the option to fulfill the obligation either by paying the allowance fixed, or by receiving and maintaining in the family dwelling the person who has a right to receive support. The latter alternative cannot be availed of in case there is a moral or legal obstacle thereto. (299a)

**Article 205.** The right to receive support under this Title as well as any money or property obtained as such support shall not be levied upon on attachment or execution. (302a)

**Article 206.** When, without the knowledge of the person obliged to give support, it is given by a stranger, the latter shall have a right to claim the same from the former, unless it appears that he gave it without intention of being reimbursed. (2164a)

**Article 207.** When the person obliged to support another unjustly refuses or fails to give support when urgently needed by the latter, any third person may furnish support to the needy individual, with right of reimbursement from the person obliged to give support. This Article shall particularly apply when the father or mother of a child under the age of majority unjustly refuses to support or fails to give support to the child when urgently needed. (2166a)

**Article 208.** In case of contractual support or that given by will, the excess in amount beyond that required for legal support shall be subject to levy on attachment or execution.

Furthermore, contractual support shall be subject to adjustment whenever modification is necessary due to changes of circumstances manifestly beyond the contemplation of the parties. (n)

## TITLE IX
## PARENTAL AUTHORITY

### Chapter 1. General Provisions

**Article 209.** Pursuant to the natural right and duty of parents over the person and property of their unemancipated children, parental authority and responsibility shall include the caring for and rearing them for civic consciousness and efficiency and the development of their moral, mental and physical character and well-being. (n)

**Article 210.** Parental authority and responsibility may not be renounced or transferred except in the cases authorized by law. (313a)

**Article 211.** The father and the mother shall jointly exercise parental authority over the persons of their common children. In case of disagreement, the father's decision shall prevail, unless there is a judicial order to the contrary.

Children shall always observe respect and reverence towards their parents and are obliged to obey them as long as the children are under parental authority. (311a)

**Article 212.** In case of absence or death of either parent, the parent present shall continue exercising parental authority. The remarriage of the surviving parent shall not affect the parental authority over the children, unless the court appoints another person to be the guardian of the person or property of the children. (n)

**Article 213.** In case of separation of the parents, parental authority shall be exercised by the parent designated by the Court. The Court shall take into account all relevant considerations, especially the choice of the child over seven years of age, unless the parent chosen is unfit. (n)

No child under seven years of age shall be separated from the mother unless the court finds compelling reasons to order otherwise.

**Article 214.** In case of death, absence or unsuitability of the parents, substitute parental authority shall be exercised by the surviving grandparent. In case several survive, the one designated by the court, taking into account the same consideration mentioned in the preceding article, shall exercise the authority. (355a)

**Article 215.** No descendant shall be compelled, in a criminal case, to testify against his parents and grandparents, except when such testimony is indispensable in a crime against the descendant or by one parent against the other. (315a)

### Chapter 2. Substitute and Special Parental Authority

**Article 216.** In default of parents or a judicially appointed guardian, the following person shall exercise substitute parental authority over the child in the order indicated:

(1) The surviving grandparent, as provided in Art. 214;

(2) The oldest brother or sister, over twenty-one years of age, unless unfit or disqualified; and

(3) The child's actual custodian, over twenty-one years of age, unless unfit or disqualified.

Whenever the appointment or a judicial guardian over the property of the child becomes necessary, the same order of preference shall be observed. (349a, 351a, 354a)

**Article 217.** In case of foundlings, abandoned neglected or abused children and other children similarly situated, parental authority shall be entrusted in summary judicial proceedings to heads of children's homes, orphanages and similar institutions duly accredited by the proper government agency. (314a)

**Article 218.** The school, its administrators and teachers, or the individual, entity or institution engaged in child are shall have special parental authority and responsibility over the minor child while under their supervision, instruction or custody.

Authority and responsibility shall apply to all authorized activities whether inside or outside the premises of the school, entity or institution. (349a)

**Article 219.** Those given the authority and responsibility under the preceding Article shall be principally and solidarily liable for damages caused by the acts or omissions of the unemancipated minor. The parents, judicial guardians or the persons exercising substitute parental authority over said minor shall be subsidiarily liable.

The respective liabilities of those referred to in the preceding paragraph shall not apply if it is proved that they exercised the proper diligence required under the particular circumstances.

All other cases not covered by this and the preceding articles shall be governed by the provisions of the Civil Code on quasi-delicts. (n)

### Chapter 3. Effect of Parental Authority
### Upon the Persons of the Children

**Article 220.** The parents and those exercising parental authority shall have with the respect to their unemancipated children on wards the following rights and duties:

(1) To keep them in their company, to support, educate and instruct them by right precept and good example, and to provide for their upbringing in keeping with their means;

(2) To give them love and affection, advice and counsel, companionship and understanding;

(3) To provide them with moral and spiritual guidance, inculcate in them honesty, integrity, self-discipline, self-reliance, industry and thrift, stimulate their interest in civic affairs, and inspire in them compliance with the duties of citizenship;

(4) To furnish them with good and wholesome educational materials, supervise their activities, recreation and association with others, protect them from bad company, and prevent them from acquiring habits detrimental to their health, studies and morals;

(5) To represent them in all matters affecting their interests;

(6) To demand from them respect and obedience;

(7) To impose discipline on them as may be required under the circumstances; and

(8) To perform such other duties as are imposed by law upon parents and guardians. (316a)

**Article 221.** Parents and other persons exercising parental authority shall be civilly liable for the injuries and damages caused by the acts or omissions of their unemancipated children living in their company and under their parental authority subject to the appropriate defenses provided by law. (2180(2)a and (4)a )

**Article 222.** The courts may appoint a guardian of the child's property or a guardian ad litem when the best interests of the child so requires. (317)

**Article 223.** The parents or, in their absence or incapacity, the individual, entity or institution exercising parental authority, may petition the proper court of the place where the child resides, for an order providing for disciplinary measures over the child. The child shall be entitled to the assistance of counsel, either of his choice or appointed by the court, and a summary hearing shall be conducted wherein the petitioner and the child shall be heard.

However, if in the same proceeding the court finds the petitioner at fault, irrespective of the merits of the petition, or when the circumstances so warrant, the court may also order the deprivation or suspension of parental authority or adopt such other measures as it may deem just and proper. (318a)

**Article 224.** The measures referred to in the preceding article may include the commitment of the child for not more than thirty days in entities or institutions engaged in child care or in children's homes duly accredited by the proper government agency.

The parent exercising parental authority shall not interfere with the care of the child whenever committed but shall provide for his support. Upon proper petition or at its own instance, the court may terminate the commitment of the child whenever just and proper. (391a)

### Chapter 4. Effect of Parental Authority
### Upon the Property of the Children

**Article 225.** The father and the mother shall jointly exercise legal guardianship over the property of the unemancipated common child without the necessity of a court appointment. In case of disagreement, the father's decision shall prevail, unless there is a judicial order to the contrary.

Where the market value of the property or the annual income of the child exceeds P50,000, the parent concerned shall be required to furnish a bond in such amount as the court may determine, but not less than ten per centum (10%) of the value of the property or annual income, to guarantee the performance of the obligations prescribed for general guardians.

A verified petition for approval of the bond shall be filed in the proper court of the place where the child resides, or, if the child resides in a foreign country, in the proper court of the place where the property or any part thereof is situated.

The petition shall be docketed as a summary special proceeding in which all incidents and issues regarding the performance of the obligations referred to in the second paragraph of this Article shall be heard and resolved.

The ordinary rules on guardianship shall be merely suppletory except when the child is under substitute parental authority, or the guardian is a stranger, or a parent has remarried, in which case the ordinary rules on guardianship shall apply. (320a)

**Article 226.** The property of the unemancipated child earned or acquired with his work or industry or by onerous or gratuitous title shall belong to the child in ownership and shall be devoted exclusively to the latter's support and education, unless the title or transfer provides otherwise.

The right of the parents over the fruits and income of the child's property shall be limited primarily to the child's support and secondarily to the collective daily needs of the family. (321a, 323a)

**Article 227.** If the parents entrust the management or administration of any of their properties to an unemancipated child, the net proceeds of such property shall belong to the owner. The child shall be given a reasonable monthly allowance in an amount not less than that which the owner would have paid if the administrator were a stranger, unless the owner, grants the entire proceeds to the child. In any case, the proceeds thus give in whole or in part shall not be charged to the child's legitime. (322a)

### Chapter 5. Suspension or Termination of Parental Authority

**Article 228.** Parental authority terminates permanently:

(1) Upon the death of the parents;

(2) Upon the death of the child; or

(3) Upon emancipation of the child. (327a)

**Article 229.** Unless subsequently revived by a final judgment, parental authority also terminates:

(1) Upon adoption of the child;

(2) Upon appointment of a general guardian;

(3) Upon judicial declaration of abandonment of the child in a case filed for the purpose;

(4) Upon final judgment of a competent court divesting the party concerned of parental authority; or

(5) Upon judicial declaration of absence or incapacity of the person exercising parental authority. (327a)

**Article 230.** Parental authority is suspended upon conviction of the parent or the person exercising the same of a crime which carries with it the penalty of civil interdiction. The authority is automatically reinstated upon service of the penalty or upon pardon or amnesty of the offender. (330a)

**Article 231.** The court in an action filed for the purpose in a related case may also suspend parental authority if the parent or the person exercising the same:

(1) Treats the child with excessive harshness or cruelty;

(2) Gives the child corrupting orders, counsel or example;

(3) Compels the child to beg; or

(4) Subjects the child or allows him to be subjected to acts of lasciviousness.

The grounds enumerated above are deemed to include cases which have resulted from culpable negligence of the parent or the person exercising parental authority.

If the degree of seriousness so warrants, or the welfare of the child so demands, the court shall deprive the guilty party of parental authority or adopt such other measures as may be proper under the circumstances.

The suspension or deprivation may be revoked and the parental authority revived in a case filed for the purpose or in the same proceeding if the court finds that the cause therefor has ceased and will not be repeated. (33a)

**Article 232.** If the person exercising parental authority has subjected the child or allowed him to be subjected to sexual abuse, such person shall be permanently deprived by the court of such authority. (n)

**Article 233.** The person exercising substitute parental authority shall have the same authority over the person of the child as the parents.

In no case shall the school administrator, teacher of individual engaged in child care exercising special parental authority inflict corporal punishment upon the child. (n)

## TITLE X
## EMANCIPATION AND AGE OF MAJORITY

**Article 234.** Emancipation takes place by the attainment of majority. Unless otherwise provided, majority commences at the age of twenty-one years.

Emancipation also takes place:

(1) By the marriage of the minor; or

(2) By the recording in the Civil Register of an agreement in a public instrument executed by the parent exercising parental authority and the minor at least eighteen years of age. Such emancipation shall be irrevocable. (397a, 398a, 400a, 401a)

**Article 235.** The provisions governing emancipation by recorded agreement shall also apply to an orphan minor and the person exercising parental authority but the agreement must be approved by the court before it is recorded. (n)

**Article 236.** Emancipation for any cause shall terminate parental authority over the person and property of the child who shall then be qualified and responsible for all acts of civil life. (412a)

**Article 237.** The annulment or declaration of nullity of the marriage of a minor or of the recorded agreement mentioned in the foregoing. Articles 234 and 235 shall revive the parental authority over the minor but shall not affect acts and transactions that took place prior to the recording of the final judgment in the Civil Register. (n)

## TITLE XI
## SUMMARY JUDICIAL PROCEEDINGS IN THE FAMILY LAW

### Chapter 1. Prefatory Provisions

**Article 238.** Until modified by the Supreme Court, the procedural rules provided for in this Title shall apply as regards separation in fact between husband and wife, abandonment by one of the other, and incidents involving parental authority. (n)

### Chapter 2. Separation in Fact

**Article 239.** When a husband and wife are separated in fact, or one has abandoned the other and one of them seeks judicial authorization for a transaction where the consent of the other spouse is required by law but such consent is withheld or cannot be obtained, a verified petition may be filed in court alleging the foregoing facts.

The petition shall attach the proposed deed, if any, embodying the transaction, and, if none, shall describe in detail the said transaction and state the reason why the required consent thereto cannot be secured. In any case, the final deed duly executed by the parties shall be submitted to and approved by the court. (n)

**Article 240.** Claims for damages by either spouse, except costs of the proceedings, may be litigated only in a separate action. (n)

**Article 241.** Jurisdiction over the petition shall, upon proof of notice to the other spouse, be exercised by the proper court authorized to hear family cases, if one exists, or in the regional trial court or its equivalent sitting in the place where either of the spouses resides. (n)

**Article 242.** Upon the filing of the petition, the court shall notify the other spouse, whose consent to the transaction is required, of said petition, ordering said spouse to show cause why the petition should not be granted, on or before the date set in said notice for the initial conference. The notice shall be accompanied by a copy of the petition and shall be served at the last known address of the spouse concerned. (n)

**Article 243.** A preliminary conference shall be conducted by the judge personally without the parties being assisted by counsel. After the initial conference, if the court deems it useful, the parties may be assisted by counsel at the succeeding conferences and hearings. (n)

**Article 244.** In case of non-appearance of the spouse whose consent is sought, the court shall inquire into the reasons for his failure to appear, and shall require such appearance, if possible. (n)

**Article 245.** If, despite all efforts, the attendance of the non-consenting spouse is not secured, the court may proceed ex parte and render judgment as the facts and circumstances may warrant. In any case, the judge shall endeavor to protect the interests of the non-appearing spouse. (n)

**Article 246.** If the petition is not resolved at the initial conference, said petition shall be decided in a summary hearing on the basis of affidavits, documentary evidence or oral testimonies at the sound discretion of the court. If testimony is needed, the court shall specify the witnesses to be heard and the subject-matter of their testimonies, directing the parties to present said witnesses. (n)

**Article 247.** The judgment of the court shall be immediately final and executory. (n)

**Article 248.** The petition for judicial authority to administer or encumber specific separate property of the abandoning spouse and to use the fruits or proceeds thereof for the support of the family shall also be governed by these rules. (n)

### Chapter 3. Incidents Involving Parental Authority

**Article 249.** Petitions filed under Articles 223, 225 and 235 of this Code involving parental authority shall be verified.. (n)

**Article 250.** Such petitions shall be verified and filed in the proper court of the place where the child resides. (n)

**Article 251.** Upon the filing of the petition, the court shall notify the parents or, in their absence or incapacity, the individuals, entities or institutions exercising parental authority over the child. (n)

**Article 252.** The rules in Chapter 2 hereof shall also govern summary proceedings under this Chapter insofar as they are applicable. (n)

## TITLE XII
## FINAL PROVISIONS

**Article 253.** Titles III, IV, V, VI, VIII, IX, XI, and XV of Book 1 of Republic Act No. 386, otherwise known as the Civil Code of the Philippines, as amended, and Articles 17, 18, 19, 27, 28, 29, 30, 31, 39, 40, 41, and 42 of Presidential Decree No. 603, otherwise known as the Child and Youth Welfare Code, as amended, and all laws, decrees, executive orders, proclamations, rules and regulations, or parts thereof, inconsistent herewith are hereby repealed.

**Article 254.** If any provision of this Code is held invalid, all the other provisions not affected thereby shall remain valid.

**Article 255.** This Code shall have retroactive effect insofar as it does not prejudice or impair vested or acquired rights in accordance with the Civil Code or other laws.

**Article 265.** This Code shall take effect one year after the completion of its publication in a newspaper of general circulation, as certified by the Executive Secretary, Office of the President.

Done in the City of Manila, this 6th day of July, in the year of Our Lord, nineteen hundred and eighty-seven.

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