

SYLLABUS FOR 2011 BAR EXAMINATIONS

CIVIL LAW

I. Effect and Application of Laws – New Civil Code

- A. When law takes effect, NCC Art. 2
- B. Ignorance of the Law, NCC Art. 3
- C. Retroactivity of Laws, NCC Art. 4
- D. Mandatory or Prohibitory Laws, NCC Art. 5
- E. Waiver of Rights, NCC Art. 6
- F. Repeal of Laws, NCC Art. 7
- G. Judicial Decisions, NCC Art. 8
- H. Duty to Render Judgment, NCC Art. 9
- I. Presumption and Applicability of Custom, NCC Arts 10-12
- J. Legal Periods, NCC Art. 13
- K. Applicability of Penal Laws, NCC Art. 14
- L. Conflict of Laws, NCC Arts. 15-18, relative to Divorce, Art. 26 (2)

II. Human Relations – New Civil Code

- A. NCC Art. 19-22, relative to breach of promise to marry
- B. Independent Civil Actions – *EXCLUDE: to be covered by Remedial Law*
- C. Prejudicial Questions – *EXCLUDE: to be covered by Remedial Law*

PERSONS

I. Persons and Personality – New Civil Code

- A. Capacity to Act
 - 1. Civil Personality, NCC Art. 37
 - 2. Restrictions on Capacity to Act, NCC 38-39
 - 3. Birth, NCC 40-41
 - 4. Death, NCC 42-43
 - a. Compare Art. 43 with Rule 131, Sec. 3 (jj) presumption of Survivorship

EXCLUDE: NCC 44-47

- B. Domicile and residence of person, NCC 50-51

II. Marriage – Family Code (Aug. 3, 1988)

EXCLUDE: Muslim Code, (PD 1083)

- A. Requisites
 1. Nature of Marriage, Art. 1
 2. Kinds of Requisites, Arts. 2-3
 3. Effect of absence of requisites, Art. 4
 4. Essential – Art. 5
 - a. Age, Art. 5
 5. Ceremony, Art. 6
 6. Formal – Arts. 7, 31, 32
 7. Solemnizing authority, Art. 7-8, 10
 - a. Exceptions – Art. 35 (2)
 8. License Required – Arts 3 (2), 9, 11, 20, 26
 - a. Foreign National – Art. 21
 - b. Exceptions – Arts. 27, 31-32, 34
 9. Marriage Certificate, Art. 22

EXCLUDE: Duties of a Civil Registrar, Arts. 12-19, 23-25

- B. Effect of Marriage celebrated abroad and foreign divorce, Art. 26
- C. Void and Voidable marriages
 1. Void Marriage – Arts. 5, 35, 36-8, 52-3
 - a. Absence of Requisites, Art. 35
 - b. Psychological incapacity, Art. 36
 - c. Incestuous marriages, Arts. 37-38
 2. Prescription, Art. 39
 3. Subsequent marriage, Arts. 40-44
 4. Annulable marriage, Arts. 14, 45-46
 5. Voidable marriages, Art. 45-47
 6. Presence of prosecutor, Art. 48
 7. Pendency of action, Art. 49
 8. Effects of nullity, Arts. 50-54

EXCLUDE: SC Rules on Procedure (Nullity and Provisional Orders), R.A. 6955, An Act to Declare Unlawful the Practice of Matching Filipino Women for Marriage to Foreign Nationals, RA 9208, Anti-Trafficking in Persons Act

III. Legal Separation

- A. Grounds, Art. 55, Republic Act. 9262, Anti-Violence Against Women and Children
- B. Defenses, Arts. 56-57
- C. Cooling-off Period, Art. 58
- D. Reconciliation efforts, Art. 59
- E. Confession of Judgment, Art. 60
- F. Effects of Filing Petition, Art. 61
- G. Effects of pendency, Art. 62
- H. Effects of legal separation, Arts. 63-64
- I. Reconciliation, Arts. 65-67

EXCLUDE: SC Rules on legal separation

IV. Rights and Obligations Between Husband and Wife

- A. Essential Obligations, Art. 68
- B. Family domicile, Art. 69
- C. Support, Art. 70
- D. Management of household, Art. 71
- E. Effect of neglect of duty, Art. 72
- F. Exercise of profession, Art. 73

EXCLUDE: R.A. 7192, An Act Promoting the Integration of Womens as Full and Equal Partners of Men in Development and Nation Building, RA 8187, An Act Granting Paternity Leave, RA 9710, Magna Carta for Women

V. Property Relations of the Spouses

- A. Marriage Settlements, Arts. 76-81
- B. Donations by Reason of Marriage, Arts. 82-83, 86, 43(3), 50
- C. Void donations by the spouses, Art. 87
- D. Absolute Community of property
 - 1. General Provisions, Arts. 75-85, 88-90
 - 2. What constitutes Community Property, Arts. 91-93
 - 3. Charges Upon and Obligations of the Community Property, Arts. 94-95
 - 4. Ownership, Administration, Enjoyment and Disposition of the Community Property, Arts. 96-98
 - 5. Dissolution of Community Regime, Arts. 99-101

6. Liquidation of the Absolute Community Assets and Liabilities, Arts. 102-104
- E. Conjugal Partnership of Gains
 1. General Provision, Arts. 105-108
 2. Exclusive Property of Each Spouse, Arts. 109-115
 3. Conjugal Partnership Property, Arts. 116-120
 4. Charges upon and obligations of the CPG, Arts. 121-123
 5. Administration of the CPG, Arts. 124-125
 6. Dissolution of CPG Regime, Arts. 126-128
 7. Liquidation of the Conjugal Partnership Assets and Liabilities, Arts. 129-133
- F. Separation of Property of the Spouses and Administration of Common Property by One Spouse During the Marriage, Arts. 134-142
- G. Regime of Separation of Property, Arts. 143-146
- H. Property Regime of Unions Without Marriage, Arts. 147-148

VI. The Family

- A. The Family as an Institution, Arts. 149-151
- B. The Family Home, Arts. 152-165
EXCLUDE: Arts. 157, 161 and 162

VII. Paternity and Filiation

- A. Legitimate Children, Arts. 163-171
- B. Proof of Filiation, Arts. 172-174
- C. Illegitimate Children, Art. 175 and Art. 176 as amended by RA 9255
- D. Legitimated Children, Arts. 177-182

EXCLUDE: SC Rule on DNA Evidence

VIII. Adoption

EXCLUDE: Family Code, Arts. 183-188, 191-193

- A. RA 8552 – Domestic Adoption Law
 1. Who can adopt
 2. Who can be adopted
 3. Rights of an adopted child – include FC, Arts. 189 and 190 on successional rights

4. Rescission of adoption

EXCLUDE: *AM No. 02-6-02-S.C. (Aug. 22, 2002), RA 9523 – requiring certification of the department of DSWD to declare a “child legally available for adoption”*

- B. RA 8043, The Law on Inter- Country Adoption
 - 1. Who can Adopt
 - 2. Who can be adopted

IX. Support

- A. What it Compromises, Art. 194
- B. Who are Obligated, Arts. 195-197, 199-200, 206-208
- C. Support during marriage litigation, Art. 198
- D. Amount, Arts. 201-202
- E. When Demandable, Art. 203
- F. Options, Art. 204
- G. Attachment, Art. 205

X. Parental Authority

- A. General Provisions, Arts. 209-215
- B. Substitute and Special Parental Authority, Arts. 216-219
- C. Effect of Parental Authority upon the Persons of the Children, Arts. 220-224

EXCLUDE: *Rule on Guardianship of Minors, Rule on Custody of Minors, RA 8972 – Solo Parents Act, RA 8980 – Policy for Childhood Care*

- D. Effects of Parental Authority upon the Property of the Children, Arts. 225-227

EXCLUDE: *RA 9231 – Child Labor Law (to be covered by Labor Law)*

- E. Suspension or Termination of Parental Authority, Arts. 228-233

RA 7610 – Child Abuse Law

XI. Emancipation

Arts. 234 and 236, as amended by RA 6809

XII. Summary Judicial Proceedings in the Family Law

XIII. Final Provisions – Retroactive effect, Art. 256

EXCLUDE: Arts. 254-255, 257

XIV. Funeral, NCC Arts. 305-301

EXCLUDE: Care and Education of Children, Arts. 356-363

XV. Use of surnames

Arts. 364-369, 369-380 (other articles repealed by Family Code)

XVI. Absence – NCC Art. 43; Art. 41 Family Code

- A. Provisional measures in Case of Absence, Arts. 381-383
- B. Declaration of Absence, Arts. 384-389
- C. Administration of the Property of the Absentee, arts. 387-389
- D. Presumption of Death, Arts. 390-392
EXCLUDE: Arts. 393-396, contingent assets

XVII. Civil Registrar

- A. Arts. 407-413
- B. RA 9048-clerical errors
- C. Rule 108, Rules of Court

EXCLUDE: Act. No. 375, IRR of RA 9048

PROPERTY

I. Characteristics

II. Classification – Arts. 415-418

- A. Hidden Treasure – Arts. 438-9
- B. Right of Accession – Art. 440
 - 1. Fruits –Arts. 441-4
 - 2. With respect to Immovable Property
 - a. Builder, planter, sower on land of another in concept of owner
 - (1) Builder, planter, sower in good faith – Arts. 448-456
 - (2) Builder, planter, sower in bad faith – Arts. 449-450

- b. Usufructuary, Art. 579
 - 3. Lands adjoining river banks
 - a. Alluvion – Art. 457
 - b. Change of course of river – Arts. 461-246, see Water Code PD 1067
 - c. Avulsion- Arts. 459-463
 - 4. Islands – Arts. 464-465
- C. By Object
 - 1. Real or immovable
 - 2. Personal or Movable
- D. By Owner
 - 1. Of public dominion
 - 2. Of private ownership
 - a. Patrimonial property – distinction between private property of individual persons, and of State entities
- E. By Nature
 - 1. Consumable/non-consumable vs. Fungible/non-fungible

III. Ownership

- A. Right in general
 - 1. Bundle of rights
 - a. *Jus utendi, fruendi, abutendi, vindicandi, disponendi (possidendi)*
 - (1) Actions to recover ownership and possession of real property
 - (a) Distinctions between *accion reivindicatoria*, *accion publiciana*, *accion interdictal*
 - (b) Distinction between forcible entry and unlawful detainer
 - (2) Actions for recovery of possession of moveable property
 - (3) Requisites for recovery of property – proof of right; identity; reliance on strength of own evidence not weakness of defendant’s claim
 - 2. Distinction between real and personal rights
- B. Modes of acquiring ownership

1. original, derivative

C. Limitations

1. General limitations – taxation, eminent domain, police power
2. Specific Limitations – imposed by law, *sic utere tuo*, nuisance, stat of necessity, easements voluntarily imposed by owner: servitudes, mortgages imposed by contract

IV. Accession

A. Right to hidden treasure

B. General Rules:

1. For immovables:
 - a. *Accession discreta* (natural and industrial civil fruits) and *continua* (over immovables: artificial/industrial and natural)
 - b. *Accession industrial* (building, avulsion, rivers, islands)
 - c. *Accession natural* (accretion, avulsion, rivers, islands)
2. For movables:
 - a. *Accession continua* (conjunction, adjunction, commixtion/ confusion, specification)
 - b. Rules for determining the principal and accessory

V. Quieting of title to/interest in and removal/prevention of cloud over title to/interest in real property

A. Requirement

B. Distinction between quieting title and removing/preventing a cloud

C. Prescription/non-prescription of action

VI. Co-ownership

A. Characteristics of co-ownership

1. In general
2. Special rules:
 - a. Concept of condominium
 - (1) Condominium corporation
 - (2) Interest in real property
 - (3) Concept of common areas, amendment

- (4) Documents to consider (master deed, declaration of restrictions, articles and by-laws of the condominium corporation or the association where applicable)
 - b. Rights and obligations of condominium owner
 - (1) Contributions/Dues
 - (2) PD 957 and RA 6552
 - c. Grounds for partition of common areas, or dissolution of the condominium
- B. Source of co-ownership
- C. Rights of co-owners
- 1. Distinction between right to property owned in common and full ownership over his/her ideal share
 - 2. Right to oppose acts of alteration
 - 3. Right to partition
 - 4. Right to contributions for expenses (necessary expenses, taxes)
 - 5. Waiver
 - 6. Right to redemption of co-owners share
- D. Termination/extinguishment
- 1. Effect of partition
 - 2. Rights against individual co-owners in case of partition
 - 3. Partition in case co-owners cannot agree

VII. Possession

- A. Characteristics
- B. Acquisition of Possession – Art. 531
- C. Effects of Possession
 - 1. Possessor in Good Faith – Arts. 544, 526-527
 - a. Right to pending fruits – Art. 545
 - b. Right to be reimbursed
 - (1) Necessary and useful expenses – Arts. 546-547
 - (2) Expenses for pure luxury – Art. 548
 - 2. Possessor in Bad Faith – Arts. 449, 549, 552
- D. Loss or Unlawful Deprivation of a Movable – Arts. 559, 1505 (3)
 - 1. Period to Recover – Arts. 1140, 1134, 1132, 1133
 - 2. Finder of Lost Movable – Arts. 719-720

3. Distinguished from voidable title – Art. 1506

- E. In concept of owner, holder, in one's own name, in name of another
- F. Rights of the possessor
- G. Loss/termination

VIII. Usufruct

- A. Characteristics
- B. Classification
- C. Rights and obligations of usufructuary
- D. Rights of the owner
- E. Extinction/termination

IX. Easements – Arts. 613, 615-616

- A. Characteristics
- B. Classification
 - 1. Legal easements
 - a. Right of way
 - 2. Voluntary easements – Art. 688
 - a. Effect of Zoning ordinance
- C. Modes of Acquiring Easements
 - 1. Compulsory easements – Arts. 620-624
 - 2. Easement of light and view – Arts. 669-673

X. Nuisance – Art. 694

XI. Action to Quiet Title – Arts. 476-480

XII. Modes of Acquiring Ownership – Art. 712

- A. Occupation – Art. 713
- B. Donation
 - 1. Definition – Arts. 725-6, 746
 - 2. Characteristics
 - a. Extent to which donor may donate property
 - b. Reservations and reversions
 - 3. Kinds
 - a. Donation Inter Vivos – Art. 729
 - b. Donation By Reason of Marriage – Family Code Arts. 82-83, 86
 - c. Donation Mortis Causa – Art. 728

- d. Onerous Donation – Art. 733
 - e. Simple, modal, conditional
- 4. Formalities required
 - a. How made and accepted
 - b. Perfection
 - c. Differences between formalities for donation of real, personal properties
 - (1) Movable – Art. 748
 - (2) Immovables – Art. 749
- 5. Qualifications of donor, donee
 - 6. Effects of donation/limitations
 - a. In general
 - b. Double donations
 - c. Excessive/inofficious
 - d. Scope of amount – Arts. 750-752
 - e. In fraud of creditors – Art. 759
- 7. Void Donations – Arts. 739-740, 1027
 - 8. Revocation or reduction
 - a. Grounds for revocation, grounds for reduction
 - b. How done
 - c. Effects
 - d. Prescription
 - e. Inofficious Donations – Arts. 760-761, 771-775
 - f. Ingratitude – Arts. 765, 769

EXCLUDE: *Intellectual Creations – to be covered by Mercantile Law*

PRESCRIPTION

- I. Definition – Art. 1106**
 - A. Acquisitive – Art. 1117
 - 1. Characteristics
 - 2. Ordinary
 - a. Good Faith – Art. 1127
 - b. Just title – Arts. 1129-1130
 - 3. Extraordinary – Arts. 1137, 1132 second par.
 - 4. Requisites – Arts. 1118-1125
 - 5. Period – Arts. 1132, 1134, 1138
 - 6. What cannot be required by acquisitive prescription

- B. Extinctive
 - 1. Characteristics
 - 2. Requisites
 - 3. Periods

II. No Prescription Applicable

- A. By Offender – Art. 1133
- B. Registered Lands – PD 1529
- C. Art. 1143, NCC
 - 1. Action legal to demand a right of way – Art. 649
 - 2. To abate a nuisance
- D. Action to quiet title if plaintiff in possession
- E. Void contracts – Art. 1410
- F. Action to demand partition – Art. 494
 - 1. Distinguished from laches
- G. Property of public dominion

III. Prescription or Limitation of Actions

- A. To recover movables – Art. 1140
- B. To recover immovables – Art. 1141
- C. Other actions – Arts. 1142-1149

IV. Interruption – Art. 1155

V. Nuisance

- A. Definition
- B. Classification
- C. Remedies

OBLIGATIONS

I. Definition

II. Elements of an Obligation

III. Different Kinds of Prestations

IV. Classification of Obligations

V. Sources of Obligations – Arts. 1156-7

- A. A single act or omission can give rise to different causes of action

- B. Natural Obligations
- C. Extra-contractual Obligations

VI. Nature and Effect of obligations

- A. Obligation to give
 1. A determinate or specific thing
 2. An indeterminate or generic thing
- B. Obligation to do or not to do
- C. Breaches of obligations
 1. Complete failure to perform
 2. Default, delay or mora – no default unless creditors makes a demand;
 - Exceptions (Art. 1169)
 - a. *Mora solvendi*
 - b. *Mora accipiendi*
 - c. *Compesatio morae*
 3. Fraud in the performance of obligation
 - a. Waiver of future fraud is void (Art. 1171)
 4. Negligence (culpa) in the performance of obligation
 - a. Diligence normally required is ordinary diligence or diligence of a good father of a family; exceptions common carriers requiring extraordinary diligence (Arts. 1998-2002)
 5. Contravention of the tenor of obligation
 6. Legal excuse for breach of obligation – fortuitous event; requisites
- D. Remedies available to creditor in cases of breach
 1. Specific Performance
 - a. Substituted performance by a third person on obligation to deliver generic thing and in obligation to do, unless a purely personal act
 2. Rescission (resolution in reciprocal obligations)
 3. Damages, in any event
 4. Subsidiary remedies of creditors (Art. 1177)
 - a. *Accion subrogatoria*
 - b. *Accion pauliana*
 - c. *Accion directa* (Arts. 1652, 1608, 1729, 1893)

VII. Kinds of civil obligations

- A. Pure – Arts. 1179-1180

- B. Conditional – Art. 1181
 - 1. Suspensive condition
 - 2. Resolutive condition
 - 3. Potestative – casual or mixed
 - a. Obligations subject to potestative suspensive conditions are void (Art. 1182)
 - 4. Effect of the happening of suspensive condition (Art. 1187); resolutive condition – no retroactivity
 - 5. Effect of loss of specific thing or deterioration or improvement of specific thing before suspensive condition (Art. 1189); if this occurs in resolutive condition in obligation to do or not to do (1190, par. 3)

- C. Obligation with a period or a term – Art. 1193
 - 1. Suspensive period; effect suspensive period is for the benefit of both debtor and of creditor, unless given in favor of one of them; if given to debtor alone, debtor loses benefit of period in any of the five cases in Art. 1198 – obligation retroact to the day of its constitution
 - 2. Resolutive period
 - 3. Definite or indefinite period
 - a. Instances when courts may fix the period (Art. 1197)
 - b. Creditor must ask court to set the period, before he can demand payment

- D. Alternative or Facultative – Art. 1199
 - 1. Difference between alternative and facultative obligations
 - 2. Effect of loss of specific things or impossibility of performance of alternative, through fault of debtor/creditor or through fortuitous events

VIII. Joint and Solidary obligation

- A. Joint (divisible) obligation
 - 1. Concurrence of two or more creditors and or two or more debtors
 - a. Joint obligation is presumed, unless otherwise indicated by the law or nature of obligation (Art. 1207)
 - b. Obligation presumed to be divided into as many equal shares as there are creditors or debtors
 - c. Each credit is distinct from one another, therefore a joint debtor cannot be required to pay for the share of another with debtor, although he may pay if he wants to (Art. 1209)

d. Insolvency of a joint debtor, others not liable for his share (Art. 1209)

B. Joint Indivisible Obligation

1. Obligation cannot be performed in parts but debtors are bound jointly
2. In case of failure of one joint debtor to perform his part (share), there is default but only debtor guilty shall be liable for damages

C. Solidary obligation

1. Anyone of the solidary creditors may collect or demand payment of whole obligation; there is mutual agency among solidary debtors (Arts. 1214, 1215)
2. Any of the solidary debtor may be required to pay the whole obligation; there is mutual guaranty among solidary debtors (Arts. 1216, 1217, 1222)
3. Each one of solidary creditors may do whatever maybe useful to the others, but not anything prejudicial to them (Art. 1212); however, any novation, compensation, confusion or remission of debt executed by any solidary creditor shall extinguish the obligation without prejudice to his liability for the shares of the other solidary creditors

D. Divisible and Indivisible – Art. 1225

E. Obligations with a Penal Clause – Arts. 1226, 1228-1230

IX. Extinguishment of Obligations

A. Payment – Arts. 1236-1238

1. Dation in payment – Art. 1245
2. Form of payment – Art. 1249
3. Extraordinary inflation or deflation – Art. 1250
4. Application of payment – Art. 1252-1254
5. Tender of Payment and Consignation – Arts. 1256-1261

B. Loss of Determinate Thing Due or Impossibility or difficulty of performance – Arts. 1262, 1266-1267

C. Condonation or Remission of Debt – Art. 1270

1. Express – Formality of Donation – art. 1270
2. Implied – Arts. 1271, 1272, 1274

D. Confusion – Arts. 1275, 1272

E. Compensation

1. Kinds – Arts. 1278, 1279
 - a. Legal compensation – Arts. 1286-1290
 - b. Agreement – Art. 1282
 - c. Voluntary – Art. 1282
 - d. Judicial – Art. 1283
 - e. Facultative
 2. Obligations not compensable – Art. 1287-1288
- F. Novation – Arts. 1291-1304

CONTRACTS

- I. Essential Requisites** – Art. 1261
- II. Kinds of Contracts**
 - A. Consensual
 - B. Real
 - C. Formal or Solemn
 1. Donations – Arts. 748-749
 2. Partnership where real property contributed – Arts. 1771, 1773
 3. Antichresis – Art. 2134
 4. Agency to sell real property or an interest therein – Art. 1874
 5. Stipulation to charge interest – Art. 1956
 6. Stipulation limiting common carrier's duty of extraordinary diligence to ordinary diligence – Art. 1744
 7. Chattel mortgage
 8. Sale of large cattle
- III. Formality** – Arts. 1356, 1357, 1358
- IV. Defective Contracts**
 - A. Rescissible Contracts – Art. 1381
 1. Difference with Rescission (resolution) under Art. 1191
 - B. Voidable Contracts – Arts. 1328-1344, 1390-1402
 - C. Unenforceable Contracts – Arts. 1403-1407, 1317
 - D. Void Contracts – Arts. 1409, 1346
 1. *Pactum commissorium* - Arts. 2088, 2130, 1390
 2. *Pactum de non alienando* – Art. 2130
 3. *Pactumleonina* – Art. 1799
- V. Effect of Contracts** – Art. 1311

SALES

I. Introduction

- A. Definition of Sales – Arts. 1458, 1470
- B. Essential Requisites of a Contract of Sale – Art. 1505
- C. Stages of Contract of Sale
- D. Obligations Created – Art. 1165
- E. Characteristics of a Contract of Sale
- F. Sale is Title and Not Mode
- G. Sale Distinguished From Other Contracts
- H. Contract of Sale/Contract to Sell

II. Parties to a Contract of Sale

- A. Capacity of parties – Arts. 1489-1492
- B. Absolute incapacity – Arts. 1327, 1397, 1399
- C. Relative incapacity: Married Persons
- D. Special disqualifications – Arts. 1491-1492

III. Subject Matter

- A. Requisites of a valid subject matter – Arts. 1459-1465
- B. Particular kinds

IV. Obligations of the Seller to Transfer Ownership

- A. Sale by a person not the owner at time of delivery – Arts. 1462, 1505, 1459
 - 1. Exceptions
- B. Sale by a person having a voidable title – Arts. 1506, 559

V. Price

- A. Meaning of price – Arts. 1469-1474
- B. Requisites for a valid price
- C. How price is determined
- D. Inadequacy of price – Arts. 1355, 1470
- E. When no price agreed – Art. 1474
- F. Manner of payment must be agreed upon
- G. Earnest money vs. option money – art. 1482

VI. Formation of Contract of Sale

- A. Preparatory – Art. 1479
 - 1. Offer – Art. 1475
 - 2. Option Contract – Arts. 1479, 1324
 - 3. Right of First Refusal
 - 4. Mutual Promise to Buy and Sell – Art. 1479
- B. Perfection – Arts. 1475, 1319, 1325, 1326
- C. Formalities of the Contract – Art. 1403 (d) (e)

VII. Transfer of Ownership

- A. Manner of Transfer – Arts. 1477, 1496-1501
- B. When delivery does not transfer title
- C. Kinds of delivery
- D. Double Sales – Art. 1544
- E. Property Registration Decree
 - 1. Requisites for registration of deed of sale in good faith
 - 2. Accompanied by vendors duplicate certificate of title, payment of capital gains tax, and documentary tax registration fees

VIII. Risk of Loss

- A. General rule – Arts. 1263, 1189
- B. When loss occurred before perfection
- C. When loss occurred at time of perfection – Arts. 1493 and 1494
- D. When loss occurred after perfection but before delivery
- E. When ownership is transferred – Art. 1504

IX. Documents of Title

- A. Definition – Art. 1636
- B. Purpose of documents of title
- C. Negotiable documents of title
- D. Non-negotiable documents of title
- E. Warranties of seller of documents of title – Art. 1516
- F. Rules on levy/garnishment of goods – Arts. 1514, 1519, 1520

X. Remedies of an Unpaid Seller

- A. Definition of unpaid seller – Art. 1525

- B. Remedies of unpaid seller

XI. Performance of Contract

- A. Delivery of thing sold
 - 1. Sale of Movables – Arts. 1522, 1537, 1480
 - 2. Sale of Immovables – Arts. 1539, 1543
 - 3. Inspections and Acceptance
- B. Payment of price

XII. Warranties

- A. Express warranties
- B. Implied warranties – Art. 1547
- C. Effects of warranties
- D. Effects of waivers
- E. Buyer's options in case of breach of warranty – Art. 1599

XIII. Breach of Contract

- A. Remedies of the Seller – Arts. 1636, 1594
 - 1. Sale of Movables
- B. Recto Law: Sale of Movables on Installment – Arts. 1484-1486
 - 1. Sale of Immovables
 - a. PD 957, sec. 23, 24
 - b. Maceda Law: Sale of Immovables on Installment
- C. Remedies of the Buyer
 - 1. Sale of Movable
 - 2. Sale of Immovables

XIV. Extinguishment of the Sale

- A. Causes – Arts. 1600, 1231
- B. Conventional redemption – Art. 1601
- C. Equitable mortgage – Arts. 1602-1604
- D. Distinguish from option to buy – Art. 1602
- E. Period of redemption – Art. 1606
- F. Exercise of the right to redeem – Art. 1616
- G. Legal redemption – Art. 1619
- H. Age redemption – Art. 1619

XV. The Law on Sale of Subdivision and Condominium (PD 957)

XVI. The Condominium Act (RA 4726)

EXCLUDE: Electronic Commerce Act, Public Land Law, Retail Trade and Liberalization Act, Bulk Sales Law

SUCCESSION

I. General Provisions (Arts. 774-780)

- A. Definition/What is transmitted – Arts. 774, 776, 781
- B. Succession occurs at the moment of death – Art. 777
- C. Kinds of Successors – Heirs, Devisees, Legatees – Art. 782

II. Testamentary Succession

- A. Wills
 - 1. In General
 - a. Definition and characteristics - (Arts. 783-787)
 - (1) Personal Act; Non-delegability of will-making – Arts. 784-785, 787; exception – 786
 - (2) Rules of Construction and Interpretation/Law Governing Formal Validity – Art. 788-795
 - 2. Testamentary Capacity and Intent – (Arts. 796-803)
 - a. Age Requirement – Art. 797
 - b. Soundness of Mind; Presumptions – Arts. 798-801
 - 3. Form
 - a. Formal Validity Rules - Arts. 17, 815-817, 819
 - (1) See Law Governing Substantive Validity – Arts. 15, 16, 1039
 - b. Common requirements – Art. 804
 - (1) In Writing
 - (2) Language/Dialect Requirement
 - c. Notarial Wills
 - (1) Arts. 805-806
 - (2) Special rules for handicapped testators – Arts. 807-808
 - (3) Substantial Compliance – Art. 809
 - (4) Requisites – Arts. 820-824

- d. Holographic Wills
 - (1) Requirements – Arts. 810-814
 - (2) Witnesses Required for Probate – Art. 811
 - Alterations, Requirements – Art. 814
- e. Joint Wills – Arts. 818-819
- 4. Codicils, Definition and Formal Requirements – Arts. 825-826
- 5. Incorporate by Reference
- 6. Revocation (Arts. 828-834); kinds (Art. 830)
- 7. Allowance and Disallowance of Wills (Arts. 838-839)
 - a. Probate Requirement – Art. 838
 - (1) Issues to be Resolved in Probate Proceedings – Art. 839
 - (a) Exceptions – when practical considerations demand the intrinsic validity of the will be resolved
 - (2) Effect of Final Decree of Probate, *Res Judicata* on Formal Validity
 - b. Grounds for Denying Probate – Art. 839
- B. Institution of Heirs (Arts. 840-856)
 - 1. Preterition – Definition, Requisites and Effects (Art. 854)
 - 2. Concept – Art. 854
 - 3. Compulsory Heirs in the Direct Line
 - 4. Preterition vs. Disposition less than Legitime/Donation *Inter Vivos* – Arts. 855, 906-918
 - 5. Effects of Preterition, devisees only entitled to completion of legitime
- C. Substitution of Heirs (Arts. 857-870)
 - 1. Definition – Art. 857
 - 2. Kinds – Arts. 858-860
 - 3. Simple Substitution – Art. 859
 - 4. Fideicommissary Substitution – Arts. 863-866, 869
- D. Conditional Testamentary Dispositions and Testamentary Dispositions with a Term – Arts. 871-885
- E. Legitime (Arts. 886-914)
 - 1. Definition – Art. 886
 - 2. Compulsory Heirs and Various Combinations – Arts. 887-903

3. *Reserva Troncal* – Art. 891
4. Disinheritance
 - a. Disinheritance for cause – Art. 919
 - (1) Reconciliation – Art. 922
 - (2) Rights of descendants of person disinherited – Art. 923
 - b. Disinheritance without cause - Art. 918
5. Legacies and Devisees – Arts. 924-959

III. Legal or Intestate Succession – Arts. 960-1014

- A. General Provisions – Arts. 960-969
 1. Relationship – Arts. 963-969
 2. Right of Representation – Arts. 970-977
- B. Order of Intestate Succession – Arts. 978-1014, 992

IV. Provisions Common to Testate and Intestate Succession – Arts. 1015-1105

- A. Right of Accretion – Arts. 1015-1023
 1. Definition and Requisites – Arts. 1015-1016
- B. Capacity to Succeed by Will or Intestacy (Arts. 1024-1040)
 1. Persons Incapable of Succeeding – Arts. 1027, 739, 1032
 2. Unworthiness vs. Disinheritance
- C. Acceptance and Repudiation of the Inheritance – Arts. 1041-1057
- D. Collation – Arts. 908-910, 1061-1062
- E. Partition and Distribution of Estate – Arts. 1078-1105
 1. Partition – Arts. 1079, 1080
 2. Partition inter vivos
 3. Effects of Partition – Arts. 1091, 1097, 1100, 1104-1105

EXCLUDE: Executors and Administrators (Arts. 1058-1060) – to be covered by Remedial Law

PARTNERSHIP

I. Contract of partnership

- A. Definition
- B. Elements

- C. Rules to determine existence
- D. How partnership is formed
- E. Partnership term
- F. Universal vs. Particular; General vs. Limited
- G. Partnership by estoppel
- H. Partnership v. Joint Venture
- I. Professional partnership
- J. Management – Arts. 1800-1803

II. Rights and obligations of partnership

III. Rights and obligations of partners among themselves

IV. Obligations of partnership/partners to third persons

V. Dissolution – Art. 1830

VI. Limited partnership

- A. Definition
- B. How limited partnership is formed/amended
- C. Rights and obligations of a limited partner

EXCLUDE: Questions requiring application of SEC opinions or regulations

AGENCY

I. Definition of agency

II. Powers – Art. 1877-8

- A. To bind principal – Arts. 1897-1902
- B. Exception – Art. 1883

III. Express vs. Implied Agency

IV. Agency by estoppel

V. General vs. Special Agency

VI. Agency couched in general terms

VII. Agency requiring special power of attorney

VIII. Agency by operation of law

IX. Rights and Obligations of Principal

X. Irrevocable agency – Arts. 1927-1930

XI. Modes of extinguishment

COMPROMISE

- I. Definition** – Art. 2028
- II. Void Compromise** – Art. 2035
- III. Effect** – Arts. 2037, 2041

CREDIT TRANSACTIONS

- I. Loan**
 - A. Commodatum vs. Mutuum
 - B. Obligations of Bailor and Bailee
 - C. Interest and the suspension of Usury Law
- II. Deposit**
 - A. Voluntary deposit
 - B. Necessary deposit
 - C. Judicial deposit
- III. Guaranty and Suretyship**
 - A. Nature and extent of guaranty
 - B. Effects of guaranty
 - C. Extinguishment of guaranty
 - D. Legal and judicial bonds
- IV. Pledge**
 - A. Definition
 - B. Kinds
 - C. Essential requirements
 - D. Obligation of pledge
 - E. Rights of pledgor
 - F. Perfection – Arts. 2093, 2096
 - G. Foreclosure – Arts. 2112, 2115
 - H. Pledge by Operation of Law – Art. 2121-2122
 - I. Distinguished from Chattel Mortgage – Arts. 2140, 1484
- V. Real Mortgage**
 - A. Definition and characteristics
 - B. Essential requisites
 - C. Foreclosure
- VI. Antichresis**

- A. Definition and characteristics
- B. Obligations of antichretic creditor

VII. Chattel Mortgage

- A. Definition and characteristics
- B. Registration

VIII. Quasi-Contracts

- A. *Negotiorum Gestio*
- B. *Solutio Indebiti*

IX. Concurrence and Preference of Credits

- A. Meaning of concurrence and preference
- B. Preferred Credits on Specific Movables
- C. Exempt Property
- D. Classification of credits
- E. Order of preference of credits

X. Insolvency Law

- A. Definition of insolvency
- B. Suspension of payments
- C. Voluntary insolvency
- D. Involuntary insolvency

EXCLUDE: Warehouse Receipts Law, Usury Law

LEASE

I. Lease of things

II. Lease of work or services

III. Lease of rural and urban lands

- A. Qualified persons
- B. Registration
- C. Prohibitions

IV. Rights and obligations of lessor and lessee

V. Special rules for lease of rural/urban lands

VI. Household service

VII. Contract of labor

- A. Obligation in case of death/injury of laborers

VIII. Contract for piece of work

LAND TITLES AND DEEDS

I. Torrens System

- A. Concept and background
- B. Certificate of Title

II. Regalian Doctrine

- A. Concept
- B. Effects
- C. Concept of native title, time immemorial possession

III. Citizenship Requirement

- A. Individuals and corporations

IV. Original Registration

- A. Who may apply
 1. Under PD 1529
 2. Under CA 141
 3. Under RA 8371
- B. Registration process and requirements
- C. Remedies
- D. Cadastral registration

V. Subsequent Registration

- A. Voluntary dealings
- B. Involuntary dealings

VI. Non-Registrable Properties

VII. Dealings with Unregistered Lands

EXCLUDE: History of land laws, Remedies sufficiently covered under Remedial Law, Registration of judgments, Orders and Partitions, Assurance Fund, Registration of Patents, Administrative structure of the Register of Deeds, Consultas

TORTS AND DAMAGES

BOOK I – TORTS

I. Principles

- A. Abuse of Right; Elements
- B. Unjust Enrichment
- C. Liability without Fault
- D. Acts Contrary to Law
- E. Acts Contrary to Morals

II. Classification of Torts

- A. According to manner of commission: intentional, negligent and strict liability
- B. According to scope: general or specific

III. The Tortfeasor

- A. The Direct Tortfeasor
 - 1. Natural Persons
 - 2. Juridical Persons
- B. Persons Made Responsible for Others
 - 1. In General
 - a. Quasi-delicts under Article 2180, how interpreted – Family Code, Arts. 218-219, 221
 - (1) Elements; definition
 - (2) Distinguished from culpa contractual and culpa criminal
 - b. Indirect liability for intentional acts
 - c. Presumption of negligence on persons indirectly responsible
 - d. Nature of liability; joint or solidary?
 - 2. In Particular
 - a. Parents

- b. Guardian
- c. Owners and Managers of Establishments and Enterprises
- d. Employers
 - (1) Meaning of employers
 - (2) Requisites
 - (a) Employee chosen by employer or through another
 - (b) Services rendered in accordance with orders which employer has authority to give
 - (c) Illicit act of employee was on the occasion or by reason of the functions entrusted to him
 - (d) Presumption of negligence
 - (3) Employer need not be engaged in business or industry
 - (4) Defense of diligence in selection and supervision
 - (5) Nature of employer's liability
- e. State
- f. Teachers and heads of establishments of arts and trades

C. Joint Tortfeasors (Art. 2194, Civil Code)

IV. Act of Omission and Its Modalities

A. Concept of Act

V. Proximate Cause

- A. Concept
 - 1. Definition
 - 2. Test
 - 3. Distinguished from Immediate Cause
 - 4. Distinguished from Intervening Cause
 - 5. Distinguished from Remote and Concurrent
- B. Cause in Fact
 - 1. But For
 - 2. Substantial Factor Test
 - 3. Concurrent Causes
- C. Legal Cause

1. Natural and Probable Consequences
2. Foreseeability

- D. Efficient Intervening Cause
- E. Cause vs. Condition
- F. Last Clear Chance

VI. Legal Injury

- A. Concept
- B. Elements of Right
- C. Violation of Right or Legal Injury

- D. Classes of Injury
 1. Injury to persons
 2. Injury to property
 3. Injury to relations

VII. Intentional Torts

- A. General
 1. Concept
 2. Classes
 - a. Interference with persons and property
 - (1) Physical harms
 - (2) Non-physical harms

 - b. Interference with relations

- B. Interference with rights to persons and property
 1. Intentional Physical Harms
 - a. General
 - (1) Concept
 - (2) Kinds

 - b. Violation of persons security, physical injuries – Art. 33, Civil Code
 - (1) Battery (Physical Injury)
 - (2) Assault (Grave Threat)

 - c. False Imprisonment (Illegal detention)
 - d. Trespass to Land
 - (1) Concept
 - (2) Elements

- e. Interference with Personal Property
 - 1) Trespass to Chattels
 - 2) Conversion
- 2. Intentional Non-Physical Harms
 - a. General
 - (1) Concept
 - (2) Kinds
 - b. Violation of Personal Dignity
 - c. Infliction of emotional distress
 - d. Violation of Privacy
 - (1) Appropriation
 - (2) Intrusion
 - (3) Public disclosure of private facts
 - (4) False light in the public eye
 - e. Disturbance of Peace of Mind
 - f. Malicious Prosecution
 - g. Defamation
 - (1) Defenses
 - (a) Absence of elements
 - (b) Privilege
 - h. Fraud or Misrepresentation (formerly deceit)
 - i. Seduction
 - j. Unjust Dismissal
- C. Interference with relations
 - 1. General
 - a. Concept
 - b. Kinds
 - 2. Family Relations
 - a. Alienation of affection
 - b. Loss of consortium
 - c. Criminal conversation (Adultery)
 - 3. Social Relations
 - a. Meddling with or disturbing family relations
 - b. Intriguing to cause another to be alienated from his friends
 - 4. Economic Relations
 - a. Interference with contractual relations

- b. Unfair competition
- 5. Political Relations
 - a. Violation of right to suffrage (NCC, Art. 32)
 - b. Violation of other political rights (freedom of speech, press, assembly and petition, etc.)
- 6. Defenses
 - a. Absence of element
 - b. Privilege
 - 1. Consent
 - 2. Self-defense and defense of others
 - 3. Necessity – NCC Art. 429
 - 4. Defense of property
 - 5. Authority of Law
 - c. Prescription
 - d. Waiver
 - e. *Force majeure*

VIII. Negligence

- A. Concept
- B. Good Father of a Family or Reasonably Prudent Man
- C. Standard of Care
 - 1. NCC, Art. 1173
 - 2. Emergency Rule
- D. Unreasonable risk of Harm
- E. Evidence
- F. Presumption of Negligence
 - 1. Legal Provisions
 - 2. *Res ipsa loquitur*
- G. Defenses
 - 1. Complete
 - a. Absence of element
 - (1) Due diligence
 - (2) Acts of public officers
 - b. Accident or fortuitous event
 - c. *Damnum absque injuria*
 - d. Authority of law
 - e. Assumption of risk

- f. Last clear chance
- g. Prescription – NCC, Art. 1144, 1146, and 1150
- h. Waiver
- i. Double recovery – NCC Art. 2177

IX. Special Liability in Particular Activities

- A. General
 - 1. Concept
- B. Products Liability
 - 1. Manufacturers or Processors
 - a. Elements
 - b. Consumer Act – RA 7394, secs. 92-107, (Ch. 1)
- C. Nuisance – NCC Arts. 694-707
 - 1. Nuisance *Per Se* and Nuisance *Per Accidence*
 - 2. Public Nuisance and Private Nuisance
 - 3. Attractive Nuisance
- D. Violation of Constitutional Rights
 - 1. Violation of Civil Liberties
- E. Violation of Rights Committed by Public Officers
- F. Provinces, Cities and Municipalities
- G. Owner of Motor Vehicle
- H. Proprietor of Building or Structure or Thing
- I. Head of Family

X. Strict Liability

- A. Animals
 - 1. Possessor and User of an Animal
- B. Nuisance (*supra*)
 - 1. Classes
 - Per se or per accidents*; Public or Private
 - 2. Easement Against Nuisance
- C. Products Liability (*supra*)
 - 1. Consumer Act

BOOK II – DAMAGES

I. General Considerations

- A. Classification
 - 1. NCC Art. 2197
 - 2. According to purpose
 - 3. According to manner of determination
 - 4. Special and ordinary

II. Actual and Compensatory Damages

- A. Concept
- B. Requisites
 - 1. Alleged and proved with certainty
 - 2. Not speculative
- C. Component Elements
 - 1. Value of loss; unrealized profit
 - 2. Attorney's fees and expenses of litigation
 - 3. Interest
- D. Extent or scope of actual damages
 - 1. In contracts and quasi-contracts
 - 2. In crimes and quasi-delicts

III. Moral Damages

- A. Concept (Arts. 2217-2218)
- B. When recoverable (Arts. 2219-2220)
 - 1. In seduction, abduction, rape and other lascivious acts
 - 2. In acts referred to in Arts. 21, 26, 27, 28, 29, 32, 34 & 35, NCC
 - 3. In cases of malicious prosecution

IV. Nominal Damages

- A. Concept
- B. When awarded

V. Temperate or Moderate Damages

- A. Concept

VI. Liquidated Damages

- A. Concept; NCC Art. 2226
- B. Rules governing in case of breach of contract

VII. Exemplary or Corrective Damages

- A. Concept; NCC Art. 2229
- B. When recovered
 1. In criminal offenses; NCC Art. 2230
 2. In quasi-delicts; NCC Art. 2231
 3. In contracts and quasi-contracts; NCC Art. 2232
- C. Requisites
 1. Arts. 2233, 2234

VIII. Damages in Case of Death

- A. In crimes and quasi-delicts causing death
 1. In death caused by breach of conduct by a common crime

IX. Graduation of Damages

- A. Duty of Injured Party
 1. Art. 2203
- B. Rules
 1. In crimes
 2. In quasi-delict; NCC Art. 2214
 3. In contracts, quasi-contracts and quasi-delicts; NCC Art. 2215
 4. Liquidated damages; NCC Art. 2227
 5. Compromise

X. Miscellaneous Rules

- A. Damages that cannot co-exists
 1. Nominal with other damages, Art. 2223
 2. Actual and Liquidated – Art. 2226
- B. Damages that must co-exist
 1. Exemplary with moral, temperate, liquidated or compensatory
- C. Damages that must stand alone
 1. Nominal Damages, Art. 2223

EXCLUDE: Distinction between tort and quasi-delict

IMPORTANT NOTE: This bar coverage description is not intended and should not be used by law schools as a syllabus or course outline in the covered subjects. It has been drawn up for the limited purpose of ensuring that candidates reviewing for the bar examinations are guided on what basic and minimum amounts of laws, doctrines, and principles they need to know and be able to use correctly before they can be licensed to practice law. More is required for excellent and distinguished work as members of the Bar.