

BOOK I

GENERAL PRINCIPLES

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TITLE 2.1

PERSONS

CHAPTER I

NATURAL PERSONS

PART I

Personality

Section 15. Personality begins with the full completion of birth as a living child and ends with death.

A child *en ventre sa mere* is capable of rights provided that it is thereafter born alive.

Section 16. In calculating the age of a person, the birth day shall be counted. If only the month of birth is known, the first day of such month shall be counted as the birthday but if it is not possible to ascertain the date of birth of a person, his age is calculated from the first day of the official year during which such birth took place.

Section 17. When several persons have perished in a common peril, and it is not possible to determine which of them perished first, they will be presumed to have died simultaneously.

Section 18. If the right to use of a name by a person entitled to it is disputed by another, or if the interest of the person entitled is injured by the fact that another uses the same name without authority, then the person entitled may demand from the other abatement of the injury. If a continuance of the injury is to be apprehended, he may apply for an injunction.

PART II

Capacity

Section 19. A person, on completion of twenty years of age ceases to be a minor and becomes *sui juris*.

Section 20. A minor becomes *sui juris* upon marriage, provided that the marriage is made in accordance with the provisions of Section 1448.

Section 21. For the doing of a juristic act, a minor must obtain the consent of his legal representative. All acts done by him without such consent are voidable unless otherwise provided.

Section 22. A minor can do all acts by which he merely acquires a right or is freed from a duty.

Section 23. A minor can do all acts which are strictly personal.

Section 24. A minor can do all acts which are suitable to his condition in life, and actually required for his reasonable needs.

Section 25. A minor, after completing fifteen years of age, can make a will.

Section 26. When the legal representative permits a minor to dispose of property for a purpose specified by him, the minor may, within the limits of such purpose, dispose of it at his pleasure. He may do the same as to property which he has been permitted to dispose of without any purpose being specified.

Section 27. The legal representative may permit a minor to carry on a commercial business or other business, or to enter into a hire of services contract as an employee. In case of refusal by the former without reasonable ground, the minor may apply in the Court for granting permission.

The minor shall, in relation to the carrying on of business or the hire of services under paragraph one, have the same capacity as a person *sui juris*.

If the carrying on of a business of service so permitted under paragraph one causes a serious damage or injury to a minor, the legal representative may terminate the permission granted to the minor or may, in case of having been granted by the Court, apply to the Court for revocation of the permission granted. therefore

If the permission is unreasonably terminated by the legal representative, the minor may apply to the Court for revoking the termination of permission of the legal representative.

The termination of permission may by the legal representative or the revocation of permission by the Court would make the minor's capacity of a person *sui juris* cease to

exist, but does not affect any acts done by the minor before the termination or revocation of the permission.

Section 28. A person of unsound mind may be adjudged incompetent by the Court on the application of any spouse, ascendants, descendants, guardian or curator, a person taking care of the person or the Public Prosecutor.

The person adjudged incompetent under paragraph one must be placed under guardianship. The appointment of guardian, power and duties of guardian, and termination of guardianship shall be in accordance with provisions of Book V of this Code.

The order of the Court under this Section shall be published in the Government Gazette.

Section 29. An act done by a person adjudged incompetent is voidable.

Section 30. An act done by a person of unsound mind but not adjudged incompetent is voidable only when the act was done at a time he was actually of unsound mind, and the other party had knowledge of such unsoundness.

Section 31. If the cause of the incompetence ceases to exist, the Court shall, on the application of the person himself or of any of the persons mentioned in Section 28, revoke the adjudication.

The order of the Court revoking the adjudication under the Section shall be published in the Government Gazette.

Section 32. A person who has physical or mental infirmity, habitual prodigality or habitual intoxication or other similar causes that make him incapable of managing his own affairs, or whose management is likely to cause detriment to his own property or family, may be adjudged as quasi-incompetent by the Court upon application by any of the persons specified in Section 28.

The person adjudged quasi-incompetent under paragraph one must be placed under curatorship.

The appointment of curator shall be in accordance with the provisions of Book V of the Code.

The order of the Court under the Section shall be published in the Government Gazette.

Section 33. If it is found by the Court in trial of the case for a person to be adjudged incompetent on account of unsound mind that he is not a person of unsound mind but has mental infirmity, he may, if it is deemed suitable by the Court or upon the application of the party or the persons specified in Section 28, be adjudged as quasi-incompetent. The same shall apply if it is found by the Court in trial of the case for a person to be adjudged quasi-incompetent on account of mental infirmity that he is a person of unsound mind, he may, if it is deemed suitable by the Court or upon the application of the party or the person specified in Section 28, be adjudged as incompetent.

Section 34. A quasi-incompetent person must obtain the consent of his curator for doing the following acts:

1. Investing his property.
2. Accepting the return of the invested property, principal or other capital.
3. Contracting a loan or lending money, borrowing or leasing value movable.
4. Giving security by any means whatever that affects him to make a forced payment.
5. Hiring or letting property longer than six months if the property is movable or three years if the property is immovable.
6. Making a gift, except the gift made suitable for situation in his life, for philanthropy, social or moral obligations.
7. Accepting a gift encumbered with a charge or refusing a gift.
8. Doing any act whose object is the acquiring of, or parting with, a right in an immovable or a valuable movable.
9. Constructing, modifying building or other structures, or making extensive repairs.
10. Entering an action in Court or doing any legal proceedings except the application made under Section 35 and the application for removal of his curator.
11. Making a compromise or submitting a dispute to arbitration

For acts other than those mentioned in paragraph one, the conduct of which by a quasi-incompetent may detriment to his own property or family, the Court is empowered, in giving and order effecting any person to be quasi-incompetent or upon the application made subsequently by the curator, to instruct the quasi-incompetent to obtain consent of the curator prior to conduct of such acts.

If the quasi-incompetent cannot do any act as mentioned in paragraph one or paragraph two by himself because of his physical or mental infirmity, the Court may give an order empowering the curator to act on behalf of the quasi-incompetent, and the provisions relating to guardian shall apply *mutatis mutandis*.

The order of the Court under this Section shall be published in the Government Gazette. Any act contrary to the provisions of this Section is voidable.

Section 35. If the curator does not give consent to the quasi-incompetent for doing any acts under Section 34 with unreasonable ground, the Court may, upon the application of the quasi-incompetent, permit him to do the act without having to obtain consent of his curator, should the act will be beneficial to the quasi-incompetent.

Section 36. If the cause for the Court adjustment of the quasi-incompetent ceases to exist, the provisions of Section 33 shall apply, *mutatis mutandis*.

PART III

Domicile

Section 37. The domicile of a natural person is the place where he has his principal residence.

Section 38. If a natural person has several residences where he lives alternately, or various centers of habitual occupation, either one shall be considered his domicile.

Section 39. If the domicile is not known, the place of residence is deemed to be his domicile.

Section 40. The domicile of a natural person who has no habitual residence, or employs his life in voyages without a central place of business shall be held to be the place where is found.

Section 41. The domicile is changed by transferring the residences with manifest intention of changing.

Section 42. If a person selects any place with manifest intention of making it a special domicile for any act, which is deemed to be the domicile in respect to such act.

Section 43. The domicile of husband and wife is the place where husband and wife cohabit as a couple unless either husband or wife expresses his/her intention to have a separate domicile.

Section 44. The domicile of a minor is that of his legal representative who is the person exercising parental power or the guardian.

In the case where the minor is under parental power of his parents and the parents have separate domiciles, the minor shall have domicile of his father or mother with whom he lives.

Section 45. The domicile of an incompetent person is that of his guardian.

Section 46. The domicile of a public official is the place where he exercises his function, provided that such function is not temporary, periodical or mere commission.

Section 47. The domicile of a convict by a final judgment of the court or by a lawful order is the prison or correctional institution where he is imprisoned until his release.

PART IV

Disappearance

Section 48. If a person has left his domicile or residence without having appointed an agent with general authority and it is uncertain whether he is living or death, the Court may, on the application of any interested person or of the Public Prosecutor, order such provisional measures to be taken as may be necessary for the management of property of such person.

The Court may appoint a manager of the property after one year has elapsed from the day when he has left his domicile or residence if no news of him has ever been received, or from the day when he has last been seen or heard of.

Section 49. If an agent with general authority has been appointed by the absent person but his authority comes to an end, or it appears that his management is likely to cause injury to the absent person, the provisions of Section 48 shall apply *mutatis mutandis*.

Section 50. The court may, on the application of any interested person or of the public prosecutor, order an inventory of the property to be made by the agent with general authority, in compliance with an injunction to be given by the court.

Section 51. Subject to the provisions of Section 802, if it is necessary for the agent with general authority to do any act beyond the scope of his authority, he must apply for court's permission and may do so on obtaining such permission.

Section 52. The manager who appointed by the court must finish making the inventory of the property of the absent person within three months as from the day on which the appointment order of the court comes to his knowledge.

However, the manager may apply to the court for the extension of the time.

Section 53. The inventory under Section 50 and Section 52 must be made in the presence of, and signed by two witnesses. Such two witnesses must be a spouse or a relative being of age of the absent person. If neither spouse nor relatives is found, or the spouses and relative refuse to be witnesses, other persons being of age may act as witnesses.

Section 54. The manager has such power of an agent with general authority as provided in Section 801 and Section 802. If the manager deems it necessary to do any acts beyond the scope of his authority, he must apply for the court's permission and may do so on obtaining such permission.

Section 55. If the absent person has appointed an agent with special authority, the manager cannot interfere with such special agency, but he can apply to the court for an order removing the agent if it appears that his management is likely to cause injury to the absent person.

Section 56. The court may, on the application of any interested person or of the public prosecutor or of its own motion;

1. Require the manager to give proper management security and return of the property entrusted to him.
2. Require him to give information as to the property condition of the absent person.
3. Remove him and appoint another manager in his stead.

Section 57. The court may, in the order appointing the property manager, determine a remuneration to be paid to the manager out of the property of the absent person; in default of which the manager may afterwards apply to the court for determining such remuneration.

The court may on the application of the manager or of an interested person or the public prosecutor, or of its own motion when it appears that circumstances on the property management have changed, give an order effecting the determination, suspension, decrease or increase of the remuneration, or anew remuneration payment to be made to the manager.

Section 58. The authority of the manager comes to an end upon:

1. The return of the absent person.
2. No return of the absent person but the property having been managed or an agent for managing his property having been appointed.
3. The death of the absent person or adjudication of disappearance having been given.
4. The resignation or the death of the manager.
5. The manager becoming an incompetent or quasi-incompetent person.
6. The manager becoming bankrupt.
7. Removal of the manager by the court.

Section 59. When the authority of the manager comes to an end under Section 58 (4) (5) or (6), the manager or his heir, administrator, guardian, curator, official receiver of the person charged with the duty to take care of the property manager, as the case may be, must inform the court without delay of such ending for the court will give an order concerning the property manager as it deems proper.

During such period of time, the said person must take all reasonable steps compatible with circumstances to protect the interest of the absent person until the property of the absent person is delivered to any person as to be ordered by the court.

Section 60. The provisions concerning Agency of this Code shall be applied to the property management of the absent person mutatis mutandis.

Section 61. If a person has left his domicile or residence and it has been uncertain for five years whether he is living or dead, the court may, on the application of any interested person or of the public prosecutor, adjudge that such person has disappeared.

The period of time under paragraph one shall be reduced to two years;

1. As from the day when the battle or war comes to an end and the person who had been engaged in such battle or war has been disappeared therein;
2. As from the day when the vehicle on which the person had been traveling was lost or destroyed;
3. As from the day when any peril of his life other than those mentioned in (1) or (2) has passed and the person had been in such peril.

Section 62. A person against whom an adjudication of disappearance has been made is deemed to have died at the completion of the period specified in Section 61.

Section 63. If it is proved by the person adjudged disappearance, any interested person or of the public prosecutor that the person who disappeared is living, or that he died at a time different from that specified in Section 62, the court must, upon the application of the said person, revoke the adjudication, but this does not affect the validity of acts done in good faith between the adjudication and the revocation.

Section 64. The adjudication of disappearance and its revocation shall be published in the Government Gazette.

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