

The Family Code Of The Philippines

Titles I, II, VI, VII, VII, X, XI, XII

July 6, 1987

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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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 counselor duly accredited by the proper government agency to the effect that the contracting parties have undergone marriage counseling. Failure to attach said certificates of marriage counseling 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 counseling referred to in the preceding paragraph. (n)

Art. 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 conspicuous 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)

Art. 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)

Art. 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)

Art. 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 canceled 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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

Art. 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.

Art. 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)

Art. 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)

Art. 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)

Art. 39. The action or defense for the declaration of absolute nullity of a marriage shall not prescribe. (As amended by Executive Order 227 and Republic Act No. 8533; The phrase "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" has been deleted by Republic Act No. 8533 [Approved February 23, 1998]).

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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 Article 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)

Art. 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)

Art. 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)

Art. 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.

Art. 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)

Art. 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)

Art. 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.

Art. 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

Art. 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)

Art. 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)

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

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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 VI

PATERNITY AND FILIATION

Chapter 1. Legitimate Children

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

Art. 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)

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

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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 die before the expiration of the period fixed for bringing his action;
- (2) If he should die after the filing of the complaint without having desisted therefrom; or
- (3) If the child was born after the death of the husband. (262a)

Chapter 2. Proof of Filiation

Art. 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)

Art. 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.

Art. 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

Art. 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)

Art. 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

Art. 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)

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

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

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

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

Art. 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

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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

Art. 194. Support comprises 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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 extra-judicial 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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 X

EMANCIPATION AND AGE OF MAJORITY

Art. 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)

Art. 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)

Art. 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)

Art. 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

Art. 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

Art. 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)

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

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

Art. 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)

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

Art. 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

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

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

Art. 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)

Art. 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

Art. 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.

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

Art. 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.

Art. 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.