

## PERSONS AND FAMILY RELATIONS

### Case Doctrines

(Diory Rabajante)

CIVIL CODE PROVISIONS	
I. PRELIMINARY TITLES (Articles 1-18)	
• Article 2	
Tañada vs. Tuvera	<ul style="list-style-type: none"> <li>- The publication must be in full or it is no publication at all, since its purpose is to inform the public of the contents of the laws. It must be made in the <i>Official Gazette</i>, and not elsewhere, as a requirement for their effectivity after 15 days from such publication or after a different period provided by the legislature.</li> <li>- (Nota Bene: Executive Order 200, dated June 18, 1987, modifying Article 2 of the Civil Code, now provides for the publication of laws either in the Official Gazette <i>or</i> in a newspaper of general circulation in the Philippines as a requirement for effectivity.)</li> <li>- The circulars issued by the Monetary Board must be published if they are meant not merely to interpret but to “fill in the details” of the Central Bank Act (RA 265) which that body is supposed to enforce.</li> </ul>
People vs. Que Po Lay	<ul style="list-style-type: none"> <li>- Circulars which prescribe a penalty for their violation should be published before becoming effective. This is based on the general principle and theory that before the public is bound by its contents, especially its penal provision, a law, regulation, or circular must first be published, and the people officially and specifically informed of said contents and the penalties for violation thereof.</li> </ul>
Pesigan vs. Angeles	
Phil. International Trading Corp. vs. Judge Angeles	
• Article 3	
Delgado vs. Alonso	<ul style="list-style-type: none"> <li>- A person who charges usurious rates of interest cannot claim justification in his ignorance of the Usury Law. He can, therefore be made to pay reasonable attorney’s fees of the debtor.</li> </ul>
People vs. Bitdu	
• Article 4	
Co vs. CA	
• Article 6	
D.M. Consunji vs. CA	
Cui vs. Arellano University [112 Phil 135]	<ul style="list-style-type: none"> <li>- Scholarship grants, as pointed out by the Director of the Bureau of Private Schools in Memorandum No. 38, are awarded in recognition of merit and not to attract and keep brilliant students in school for their propaganda value. To look at such grants as a business scheme designed to increase the business potential of an educational institution is not only inconsistent with sound public policy but also good morals. Consequently, the waiver signed by the student, waiving his right to transfer to another school unless he refunds to the university the equivalent of his scholarship grants, is void.</li> </ul>

<ul style="list-style-type: none"> <li>• Article 8</li> </ul>	
Floresca vs. Philex Mining Corporation	<ul style="list-style-type: none"> <li>- Judicial decisions of the Supreme Court assume the same authority as the statute itself. Article 8 of the Civil Code tells us that judicial decisions that apply or interpret laws of the Constitution form part of our legal system. These decisions, although in themselves not laws, are evidence of what the laws mean. The application or interpretation placed by the court upon a law is part of the law as of the date of its enactment since the Court's application or interpretation merely establishes the contemporaneous legislative intent that the construed law purports to carry into effect.</li> </ul>
<ul style="list-style-type: none"> <li>• Article 15-16</li> </ul>	
Miciano vs. Brimo	<ul style="list-style-type: none"> <li>- Case at bar: An alien testator (Turk) who made his will in the Philippines stated in the will that his property should be distributed in accordance with Philippine law, and not that of his nation.</li> <li>- The provision in the will is not valid. The Turkish law should govern the disposition of his property pursuant to Article 16.</li> </ul>
Pilapil vs. Ibay-Somera	
Roehr vs. Rodriguez	
Garcia vs. Receio	<ul style="list-style-type: none"> <li>- Our Philippine courts cannot take judicial notice of foreign laws. Like any other facts, they must be alleged and proved. Australian marital laws are not among those matters that judges are supposed to know by reason of their judicial function. The power of judicial notice must be exercised with caution, and every reasonable doubt upon the subject should be resolved in the negative.</li> </ul>
Bellis vs. Bellis	<ul style="list-style-type: none"> <li>- The 4 aspects of succession that are governed by the national law of the decedent if he is a foreigner are: <ol style="list-style-type: none"> <li>1. The order of succession</li> <li>2. The amount of successional rights</li> <li>3. The intrinsic validity of testamentary provisions</li> <li>4. The capacity to succeed.</li> </ol> </li> <li>- In case the testator, who is a foreigner, actually wanted to distribute his estate in accordance with Philippine laws, and so, in his will, there is a proviso to the effect that said estate shall be distributed in accordance with Philippine laws, the proviso in the will would be void. It is contrary to the provision of Article 16 which explicitly declares that it will be the national law of the person whose succession is under consideration that will govern.</li> </ul>
United Airlines vs. Court of Appeals	
<h2>II. Human Relations</h2>	
<ul style="list-style-type: none"> <li>• Articles 19-22</li> </ul>	
Albenson Enterprises vs. CA	<ul style="list-style-type: none"> <li>- A party injured by the filing of a court case against him, even if he is later on absolved, may file a case for damages grounded either on the principle of abuse of rights, or on malicious prosecution.</li> <li>- The principle of abuse of rights is based upon the famous maxim <i>suum jus summa injuria</i> (the abuse of a right is the greatest possible wrong). However, in order that it will be actionable, the following elements of an abuse of right under Article 19 must be present: <ol style="list-style-type: none"> <li>1. There is a legal right or duty;</li> <li>2. Which is exercised in bad faith;</li> <li>3. For the sole intent of prejudicing or injuring another.</li> </ol> </li> </ul>

Nikko Hotel vs. Reyes	
Spouses Quisimbing vs. MERALCO	
University of the East vs. Jader	
Gashem Shookat Baksh vs. CA	
Globe Mackay Cable and Radio Corp. vs. CA	<ul style="list-style-type: none"> <li>- A right, though by itself legal because recognized or granted by law as such, may nevertheless become the source of some illegality.</li> <li>- Thus, when a right is exercised in a manner which does not conform with the norms enshrined in Art. 19 of the Code and results in damage to another, a legal wrong is thereby committed for which the wrongdoer must be held responsible.</li> </ul>
Pe vs. Pe	<ul style="list-style-type: none"> <li>- The circumstances under which the defendant tried to win the girl's affection cannot but lead to any other conclusion that it was he who, through an ingenious scheme or trickery, seduced the latter to the extent of making her fall in love with him. On the pretext of teaching her how to pray the rosary, he was able to frequent the house of the plaintiff. Because of this clever strategy, he was able to win the love of the young girl and to have illicit relations with her. The wrong he caused her and her family is indeed immeasurable considering that he is a married man. Verily, he has committed an act which is actionable under Article 21.</li> </ul>
Wassmer vs. Velez	<ul style="list-style-type: none"> <li>- Mere breach of promise to marry is not actionable wrong, but to formally set a wedding and go through all the preparation therefore, only to walk out of it when the marriage is about to be solemnized is quite different. Obviously, it is contrary to good customs, and the defendant consequently must be held answerable for damages in accordance with Art. 21 of the Code.</li> </ul>
Hermosisima vs. Ca	<ul style="list-style-type: none"> <li>- In itself, mere breach of promise to marry is not actionable. However, when there had been carnal knowledge and the woman becomes pregnant and subsequently delivers, the breach may be actionable. Even assuming the woman cannot recover moral damages for the breach, nevertheless, she can recover compensatory damages for medical and hospitalization expenses as well as attorney's fees.</li> </ul>
Constantino vs. Mendez	
St. Louis Realty Corp. vs. CA	
Tenchavez vs. Escano	<ul style="list-style-type: none"> <li>- The acts of the wife in not complying with her wifely duties, deserting her husband without any justifiable cause, leaving for the United States in order to secure a decree of absolute divorce, and finally getting married again are acts which constitute a willful infliction of injury upon the husband's feelings in a manner contrary to morals, good customs or public policy for which No. 10 of Article 2219 authorizes an award for moral damages.</li> </ul>
<ul style="list-style-type: none"> <li>• Article 36</li> </ul>	
Spouses Yu vs. PCIB	
Donato vs. Luna	<ul style="list-style-type: none"> <li>- A case for annulment can be considered as a prejudicial question to the bigamy case against the accused only if it is proved that the petitioner's consent to such marriage was obtained by means of duress, violence, and intimidation in order to establish that his act in the subsequent marriage was an involuntary one and as such the same cannot be the basis for conviction. A prejudicial question</li> </ul>

	<p>usually comes into play in a situation where a civil action and a criminal action may proceed, because howsoever the issue raised in the civil action is resolved would be determined <i>juris et de jure</i> of the guilt or innocence of the accused in the criminal case.</p> <ul style="list-style-type: none"> <li>- The mere fact that there are actions to annul the marriages entered into by the accused in a bigamy case does not mean the "prejudicial questions" are automatically raised in civil actions as to warrant the suspension of criminal case.</li> </ul>
<p>III. Civil Personality</p> <ul style="list-style-type: none"> <li>• Articles 37-41</li> </ul>	
Quimiging vs. Icao	
Geluz vs. CA	<ul style="list-style-type: none"> <li>- Only one with a juridical personality can die. Here the unborn child never died because it never acquired a juridical personality. Article 40 limits the provisional personality of a conceived child by imposing the condition that the child should be subsequently born alive.</li> <li>- Case at bar: Wife went to a medical clinic for abortion without the knowledge of her husband. When the latter learned of the abortion, he brought an action against the wife basing his claim upon the provision of Art. 2206 of the Civil Code, which enumerates the damages recoverable in case of death caused by a crime or quasi delict. The husband's claim is untenable, the child being not considered alive when separated from the mother's womb.</li> </ul>
De Jesus vs. Syquia	
<ul style="list-style-type: none"> <li>• Article 43</li> </ul>	
Limjuco vs. Estate of Pedro	
Dumlao vs. Quality Plastics	<ul style="list-style-type: none"> <li>- lack of jurisdiction over a dead person; civil personality is extinguished by death; even juridical capacity which is the fitness to be the subject of legal relations, was lost through death.</li> </ul>
<p>IV. Citizenship and Domicile</p>	
Mo Ya Lim Yao vs. Commission of Immigration	<ul style="list-style-type: none"> <li>- alien woman/ man marrying a Filipino, native born or naturalized, becomes ipso facto a Filipina/ Filipino provided she/he is not disqualified to be a citizen of the Philippines.</li> </ul>
Frivaldo vs. COMELEC	<ul style="list-style-type: none"> <li>- the forfeiture of being a naturalized American Citizen did not and could not have the effect of automatically restoring one's citizenship in the Philippines that one had earlier renounced. One must re-acquire the Philippine Citizenship again.</li> </ul>
Romualdez-Marcos vs. COMELEC	<ul style="list-style-type: none"> <li>- It must be noted that "residence" is used to indicate a place of abode, whether permanent or temporary, while "domicile" denotes a fixed permanent residence to which, when absent, one has the intention of returning. Residence for election purposes is used synonymously with domicile.</li> </ul>
<p><b>FAMILY CODE PROVISIONS</b></p>	
<p>I. Requisites of Marriage</p> <ul style="list-style-type: none"> <li>• Article 1</li> </ul>	
Tuazon vs. CA	<ul style="list-style-type: none"> <li>- A petition for relief from judgment is an equitable remedy; it is allowed only in exception cases where there is no other available or adequate remedy. When a party has another remedy available or adequate remedy. When a party has another remedy available to him, which may be either a motion for new trial or appeal from</li> </ul>

	<p>an adverse decision of the trial or appeal from an adverse decision of the trial court, and he was not prevented by fraud, accident, mistake or excusable negligence from filing such motion or taking such appeal, he cannot avail himself of this petition. Marriage is not subject to stipulations, but the waiver of the husband of his right to present his evidences made the court to render judgment on the basis solely of the stipulated facts by the wife.</p>
Estrada vs. Escritor	<ul style="list-style-type: none"> <li>- Escritor, a woman whose husband had already died, has been living with Quilapio, who is also married, for twenty years. The cohabitation produced one child. Both Escritor and Quilapio are members of the Jehovah's Witnesses Church. With the attestation of the church leaders, each of them signed "Declaration of Pledging Faithfulness," which, according to their church beliefs, honors their cohabitation "before god and man." This is to recognize the fact that they no longer have bonds to their marriages, and that they declare faithfulness to each other.</li> <li>- Is the marriage between Escritor and Quilapio (evidenced by the Declaration of Pledging Faithfulness) valid? No. The court does not recognize the validity of marriage. Declarations of Pledging Faithfulness are also not recognized as valid proof of their marriage.</li> </ul>
Goitia vs. Campos-Rueda	<ul style="list-style-type: none"> <li>- Marriage is an institution, the maintenance of which in its purity the public is deeply interested. It is a relationship for life and the parties cannot terminate it at any shorter period by virtue of any contract they make.</li> <li>- A husband cannot, by his own wrongful acts, relieve himself from the duty to support his wife imposed by law; and where a husband by wrongful, illegal, and unbearable conduct, drives his wife from the domicile fixed by him, he cannot take advantage of her departure to abrogate the law applicable to the marital relations and repudiate his duties thereunder.</li> </ul>
Balogbog vs. CA	<ul style="list-style-type: none"> <li>- Under the Rules of Court, the presumption is that a man and a woman conducting themselves as husband and wife are legally married. This presumption may be rebutted only by cogent proof to the contrary. The law favors the validity of marriage, because the State is interested in the preservation of the family and the sanctity of the family is a matter of constitutional concern.</li> <li>- An exchange of vows can be presumed to have been made from the testimonies of the witnesses who state that a wedding took place, since the very purpose for having a wedding is to exchange vows of marital commitment. It would indeed be unusual to have a wedding without an exchange of vows and quite unnatural for people not to notice its absence.</li> <li>- Although a marriage contract is considered primary evidence of marriage, failure to present the same is not proof that no marriage took place.</li> </ul>
<ul style="list-style-type: none"> <li>• Articles 2-6</li> </ul>	
Cosca vs. Palaypayon	<ul style="list-style-type: none"> <li>- The Family Code pertinently provides that the formal requisites of marriage are, inter alia, a valid marriage license except in the cases provided for therein. Complementarily, it declares that the absence of any of the essential or formal requisites shall generally render the marriage void ab initio and that, while an irregularity in the formal requisites shall not affect the validity of the marriage,</li> </ul>

	<p>the party or parties responsible for the irregularity shall be civilly, criminally and administratively liable.</p> <ul style="list-style-type: none"> <li>- The civil aspect is addressed to the contracting parties and those affected by the illegal marriages, and what we are providing for herein pertains to the administrative liability of respondents, all without prejudice to their criminal responsibility. The Revised Penal Code provides that "(p)riests or ministers of any religious denomination or sect, or civil authorities who shall perform or authorize any illegal marriage ceremony shall be punished in accordance with the provisions of the Marriage Law." This is of course, within the province of the prosecutorial agencies of the Government.</li> </ul>
Enriquez vs. Velez	
Wassmer vs. Velez	<ul style="list-style-type: none"> <li>- Mere breach of promise to marry is not an actionable wrong. But to formally set a wedding and go through all the above-described preparation and publicity, only to walk out of it when the matrimony is about to be solemnized, is quite different. This is palpably and unjustifiably contrary to good customs for which defendant must be held answerable in damages in accordance with Article 21 aforesaid.</li> </ul>
<ul style="list-style-type: none"> <li>• Articles 7-10</li> </ul>	
Navarro vs. Domagtoy	<ul style="list-style-type: none"> <li>- The Court, by way of obiter dictum, held that a judge's having solemnized a marriage outside his jurisdiction is a mere irregularity that does not render the marriage void.</li> </ul>
Aranas vs. Judge Occiano	<ul style="list-style-type: none"> <li>- Under the Judiciary Reorganization Act of 1980, or B.P. 129, the authority of the regional trial court judges and judges of inferior courts to solemnize marriages is confined to their territorial jurisdiction as defined by the Supreme Court.</li> <li>- Where a judge solemnizes a marriage outside his court's jurisdiction, there is a resultant irregularity in the formal requisite laid down in Art. 3, which while it may affect the validity of the marriage, may subject the officiating official to administrative liability (obiter dictum).</li> </ul>
Laxamana vs. Baltazar	<ul style="list-style-type: none"> <li>- The vice-mayor, by operation of law, assumes the office of the acting municipal mayor during the suspension of the mayor.</li> </ul>
People vs Whipkey [69 O.G. No. 42, p. 9678 (1973)]	<ul style="list-style-type: none"> <li>- A marriage performed by a minister whose authority to solemnize a marriage has expired is void ab initio.</li> </ul>
People vs. Janssen	
<ul style="list-style-type: none"> <li>• Article 22</li> </ul>	
Lim Tanhu vs. Ramolete	
Vda. De Chua vs. CA	
<ul style="list-style-type: none"> <li>• Article 25</li> </ul>	
Republic vs. CA and Castro [236 SCRA 257 (1994)]	<ul style="list-style-type: none"> <li>- The certification by the Civil Registrar that the alleged marriage license could not be found in his records is adequate to prove that no license was issued.</li> <li>- Case at bar: Angelina Castro and Edwin Cardenas were married in a civil ceremony in the city court of Pasay w/o the knowledge of Angelina's parents. The marriage lasted only for a couple of mos. Angelina decided to migrate to the US but wanted to put in order her marital status bef. leaving. She consulted a lawyer regarding the possible annulment of her marriage. It was discovered that there was no license issued to Cardenas by the Civil Registrar of</li> </ul>

	<p>Pasig. The Civil Registrar certified that the alleged license no. does not appear from the records. The trial court denied the petition. The CA reversed the trial court, hence, this petition for review on certiorari. HELD: The presentation by the Civil Registrar is sanctioned by Sec. 29, R 132, ROC. The certification of due search and inability to find, issued by the civil registrar of Pasig, enjoys probative value, he being the officer charged under the law to keep a record of all data relative to the issuance of a marriage license. Unaccompanied by any circumstance of suspicion, and pursuant to Sec. 29, R 132 of ROC, a cert. of due search and inability to find sufficiently proved that his office did not issue the marriage license. There being no marriage license, the marriage of Angelina and Edwin is void <i>ab initio</i></p>
<p>• Article 26</p>	
<p>Garcia vs. Receio</p>	<p>- A divorce decree obtained abroad by a foreigner may be recognized in the Philippine, provided such decree is valid according to the national law of the foreigner. However, the divorce decree and the governing national law of the alien spouse who obtained the divorce must be proved. Our Philippine courts do not take judicial notice of foreign laws and judgments. Both the divorce decree and the national law of the foreigner must be alleged and proven according to our law on evidence. Therefore, before a foreign divorce can be recognized by our Philippine courts, the party pleading it must prove the divorce as a fact and demonstrate its conformity to the foreign law allowing it. Presentation solely of the divorce decree is insufficient.</p>
<p>Pilapil vs. Ibay-Somera</p>	
<p>Van Dorn vs. Romillo [139 SCRA 139 (1985)]</p>	<p>- an American husband granted absolute divorce in his country is estopped from asserting his rights over property allegedly held in the Philippines as conjugal property by him and his former wife. To maintain, as the husband does, that under our laws, the wife has to be considered still married to him and still subject to a wife's obligation under the Civil Code cannot be just. Petitioner wife should not be obliged to live together with, observe respect and fidelity, and render support to her husband. The husband should not continue to be one of her heirs with possible rights to conjugal property. SHE SHOULD NOT BE DISCRIMINATED AGAINST IN HER OWN COUNTRY IF THE ENDS OF JUSTICE ARE TO BE SERVED.</p>
<p>Cang vs. CA</p>	
<p>Tenchavez vs. Escano [15 SCRA 355 (1965)]</p>	<p>- Where the wife, a Filipina, deserted her Filipino husband, obtained a divorce in the U.S., married an American citizen, and later herself became an American citizen, the Filipino husband is entitled to legal separation conformably to Philippine law and to damages. (1) A foreign divorce between Filipino citizens, sought and decreed after the effectivity of the New Civil Code, is not entitled to recognition as valid in the Philippines, and neither is the marriage contracted with another party by the divorced consort, subsequently to the foreign decree of divorce, entitled to validity in this country. (2) Invalid divorce entitles innocent spouse to recover damages (P25,000 as moral damages; basis - 2176). (3) An action for alienation of affection against the parents of one consort does not lie in the absence of proof of malice or unworthy motives on their part.</p>

Republic vs. Orbecido	<ul style="list-style-type: none"> <li>- Par. 2 of Article 26 of the Family Code should be interpreted to include cases involving parties who, at the time of the celebration of the marriage were Filipino citizens but later on, one of them becomes a naturalized citizen of a foreign country and obtains a divorce decree. The Filipino spouse should likewise be allowed to remarry as if the other party were a foreigner at the time of marriage. To rule otherwise would be to sanction absurdity and injustice.</li> </ul>
<b>II. Marriages Exempt from the License Requirement (Articles 27 – 34)</b>	
Niñal vs. Bayadog	<ul style="list-style-type: none"> <li>- If a man and a woman have been living together as husband and wife without the benefit of marriage for at least 5 years, they are exempted from securing a marriage license to marry. But such law requires that their act of living together must be characterized by exclusivity and continuity.</li> <li>- There must be no legal impediment to marry one another during the 5-year cohabitation immediately before the day of the marriage. Otherwise, if the 5-year period is computed without any distinction as to whether they were capacitated or not to marry, the law would then be sanctioning immorality and encouraging parties to have common-law relationships and placing them on the same footing with those who live faithfully with their spouse (<i>But see Manzano vs Sanchez</i>).</li> </ul>
Manzano vs. Sanchez	<ul style="list-style-type: none"> <li>- In order that Art. 34 of the Family Code regarding legal ratification of cohabitation may apply, the following requisites must concur: <ol style="list-style-type: none"> <li>1. The man and woman must have been living together as husband and wife for at least five years before the marriage.</li> <li>2. The parties must have no legal impediment to marry each other.</li> <li>3. The fact of absence of legal impediment between the parties must be present at the time of marriage (not during the 5-year cohabitation).</li> <li>4. The parties must execute an affidavit stating that they have lived together for at least five years.</li> <li>5. The solemnizing officer must execute a sworn statement that he had ascertained the qualifications of the parties and that he had found no legal impediment to their marriage.</li> </ol> </li> </ul>
Cosca vs. Palaypayon	
Mariategui vs. CA	
<b>III. Void and Voidable Marriages (Articles 35-54)</b>	
<ul style="list-style-type: none"> <li>• Article 35</li> </ul>	
Niñal vs. Bayadog	
Republic vs. CA and Molina	<ul style="list-style-type: none"> <li>- Mere showing of "irreconcilable differences" and "conflicting personalities" in no wise constitutes psychological incapacity. It is not enough to prove that the parties failed to meet their responsibilities and duties as married persons; it is essential that they must be shown to be <i>incapable</i> of doing so, due to some psychological (nor physical) illness.</li> </ul> <p>The following guidelines in the interpretation and application of Art. 36 of the Family Code are hereby handed down for the guidance of the bench and the bar:</p>



	<p>(1) The burden of proof to show the nullity of the marriage belongs to the plaintiff. Any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity. This is rooted in the fact that both our Constitution and our laws cherish the validity of marriage and unity of the family.</p> <p>(2) The root cause of the psychological incapacity must be (a) medically or clinically identified, (b) alleged in the complaint, (c) sufficiently proven by experts and (d) clearly explained in the decision. Article 36 of the Family Code requires that the incapacity must be psychological not physical.</p> <p>(3) The incapacity must be proven to be existing at "the time of the celebration" of the marriage. The evidence must show that the illness was existing when the parties exchanged their "I do's." The manifestation of the illness need not be perceivable at such time, but the illness itself must have attached at such moment, or prior thereto.</p> <p>(4) Such incapacity must also be shown to be medically or clinically permanent or <i>incurable</i>. Such incurability may be absolute or even relative only in regard to the other spouse, not necessarily absolutely against everyone of the same sex.</p> <p>(5) Such illness must be <i>grave</i> enough to bring about the disability of the party to assume the essential obligations of marriage. Thus, "mild characterological peculiarities, mood changes, occasional emotional outbursts" cannot be accepted as <i>root</i> causes.</p> <p>(6) The essential marital obligations must be those embraced by Articles 68 up to 71 of the Family Code as regards the husband and wife as well as Articles 220, 221 and 225 of the same Code in regard to parents and their children. Such non-complied marital obligation(s) must also be stated in the petition, proven by evidence and included in the text of the decision.</p> <p>(7) Interpretations given by the National Appellate Matrimonial Tribunal of the Catholic Church in the Philippines, while not controlling or decisive, should be given great respect by our courts. It is clear that Article 36 was taken by the Family Code Revision Committee from Canon 1095 of the New Code of Canon Law, which became effective in 1983 and which provides:</p> <p>The following are incapable of contracting marriage: Those who are unable to assume the essential obligations of marriage due to causes of psychological nature.</p> <p>This is one instance where, in view of the evident source and purpose of the Family Code provision, contemporaneous religious interpretation is to be given persuasive effect. Here, the State and the Church while remaining independent, separate and apart from each other shall walk together in synodal cadence towards the same goal of protecting and cherishing marriage and the family as the inviolable base of the nation.</p> <p>(8) The trial court must order the prosecuting attorney or fiscal and the Solicitor General to appear as counsel for the state.</p>
Louel Santos vs. CA	- The failure of Julia to return home or to communicate with her husband Leouel for more than five years does not constitute

	<p>psychological incapacity.</p> <ul style="list-style-type: none"> <li>- Psychological incapacity must be characterized by (a) gravity, (b) juridical antecedence, and (c) incurability.</li> <li>- "Psychological incapacity" should refer to no less than a mental (not physical) incapacity that causes a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage which, as so expressed by Article 68 of the Family Code, include their mutual obligations to live together, observe love, respect and fidelity and render help and support.</li> <li>- The intendment of the law has been to confine the meaning of "psychological incapacity" to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage. This psychological condition must exist at the time the marriage is celebrated.</li> </ul>
<p>Republic vs. Quintero-Hamano</p>	<ul style="list-style-type: none"> <li>- Psychological capacity cannot be presumed from abandonment. It is not enough to prove that a spouse failed to meet his responsibility and duty as a married person; it is essential that he must be shown to be incapable of doing so due to some psychological, not physical, illness.</li> </ul>
<p>Choa vs. Choa</p>	
<p>Antonio vs. Reyes</p>	<ul style="list-style-type: none"> <li>- The root cause of the psychological incapacity must be: a) medically or clinically identified; b) alleged in the complaint; c) sufficiently proven by experts; and d) clearly explained in the decision.</li> <li>- Psychological incapacity must be proven to be existing at "the time of the celebration" of marriage, although the manifestation of the illness need not be perceivable at such time.</li> <li>- Interpretations given by the National Appellate Matrimonial Tribunal of the Catholic Church in the Phils., while not controlling and decisive, should be given great respect by our courts.</li> <li>- In the case at bar, the respondent fabricated friends and made up letters from fictitious characters well before the marriage. She even concealed having an illegitimate son. The gravity of respondent's psychological incapacity is sufficient to prove her disability to assume the essential obligations of marriage. Respondent is evidently unable to comply with the essential marital obligations (Art. 68) to live together, observe mutual love, respect and fidelity and render mutual help and support. It is difficult to see how an inveterate pathological liar would be able to commit to the basic tenets of relationship between spouses based on love, trust and respect.</li> </ul>
<p>Chi Ming Tsoi vs. CA</p>	<ul style="list-style-type: none"> <li>- The Supreme Court held that the prolonged refusal of a spouse to have sexual intercourse with his or her spouse is considered a sign of psychological incapacity. If a spouse, although physically capable but simply refuses to perform his or her essential marriage obligations, and the refusal is senseless and constant, Catholic marriage tribunals attribute the causes to psychological incapacity than to stubborn refusal. Senseless and protracted refusal is equivalent to psychological incapacity. One of the essential marital obligations under the Family Code is "to procreate children based on the universal principle that procreation of children through</li> </ul>

	<p>sexual cooperation is the basic end of marriage.” Constant non-fulfillment of this obligation will finally destroy the integrity or wholeness of the marriage.</p> <ul style="list-style-type: none"> <li>- Love is useless unless it is shared with another. Indeed, no man is an island, the cruelest act of a partner in marriage is to say “I could not have cared less.” This is so because an ungiven self is an unfulfilled self. The egoist has nothing but himself. In the natural order, it is sexual intimacy that brings spouses wholeness and oneness. Sexual intimacy is a gift and a participation in the mystery of creation. It is a function which enlivens the hope of procreation and ensures the continuation of family relations. ☺</li> </ul>
Armida Ferraris vs. Brix Ferraris	<ul style="list-style-type: none"> <li>- The respondent's alleged mixed personality disorder, the "leaving-the-house" attitude whenever they quarreled, the violent tendencies during epileptic attacks, the sexual infidelity, the abandonment and lack of support, and his preference to spend more time with his band mates than his family, are <i>not</i> rooted on some debilitating psychological condition but a <i>mere refusal or unwillingness to assume the essential obligations of marriage</i>. These <i>do not</i> by themselves constitute grounds for declaring a marriage void based on psychological incapacity.</li> <li>- Article 36 should not to be confused with a divorce law that cuts the marital bond neither it is to be equated with legal separation, in which the grounds need not be rooted in psychological incapacity but on physical violence, moral pressure, moral corruption, civil interdiction, drug addiction, habitual alcoholism, sexual infidelity, abandonment and the like.</li> </ul>
Navarro vs. Navarro	<ul style="list-style-type: none"> <li>- Frequent squabbles and respondent's refusal to sleep with petitioner and be supportive to him do not constitute psychological incapacity. The records show that petitioner and respondent were living in harmony in the first few years of their marriage, which bore them four children. Psychological incapacity must be more than just a "difficulty," "refusal" or "neglect" in the performance of some marital obligations, it is essential that they must be shown to be incapable of doing so, due to some psychological illness existing at the time of the celebration of the marriage.</li> </ul>
<ul style="list-style-type: none"> <li>• Article 40</li> </ul>	
Domingo vs. CA	<ul style="list-style-type: none"> <li>- The nullification of a marriage for the purpose of contracting another cannot be accomplished merely on the basis of the perception of both parties or of one that their union is defective. Were this so, this inviolable social institution would be reduced to a mockery and would rest on a very shaky foundation.</li> <li>- On the other hand, the clause “on the basis solely of a final judgment delaring such marriage void” in Article 40 of the Code denotes that such final judgment declaring the previous marriage void is not only for purpose of remarriage.</li> <li>- The prayer for declaration of absolute nullity of marriage may be raised together with the other incident of their marriage such as the separation of their properties. The Family Code has clearly provided the effects of the declaration of nullity of marriage, one of which is the separation of property according to the regime of property relations governing them.</li> </ul>
Morigo vs. People	<ul style="list-style-type: none"> <li>- Although it is stressed in Article 40 of the family code that a judicial declaration of nullity is a must before a party may re-marry, it should also be considered that bigamy can be successfully prosecuted provided all its elements concur. In this case, one of</li> </ul>

	<p>the elements of bigamy that is <i>the offender has been legally married</i> is not present. Because legally speaking, the petitioner was never married to Lucia Barrete, with reference to the fact that there is no authority from the solemnizing officer.</p>
Weigel vs. Sempio-Dy	<ul style="list-style-type: none"> <li>- He who contracts a second marriage before the judicial declaration of nullity of the first marriage assumes the risk of being prosecuted for bigamy.</li> </ul>
Terre vs. Terre	
Valdes vs. RTC	
People vs. Aragon	
Mercado vs. Tan-Mercado	<ul style="list-style-type: none"> <li>- Can Mercado invoke the absolute nullity of previous marriage to defend his innocence in the crime of bigamy? No, because the declaration of absolute nullity of his previous marriage came not before the celebration of the second marriage, but after, when the case for bigamy was already tried in court. The declaration of nullity came only after the second marriage was instituted, hence, by then, the crime had already been consummated. Mercado is guilty of bigamy.</li> </ul>
Bobis vs. Bobis	
	<ul style="list-style-type: none"> <li>• Articles 41-42</li> </ul>
Republic vs. Nolasco	<ul style="list-style-type: none"> <li>- Due diligence is required in searching for a missing spouse. When he arrived in Antique, instead of seeking help from authorities or the British embassy, Nolasco secured another contract and went to London, a city of million people to look for his wife when in fact, the respondent met Monica in a bar in Liverpool, some 350 km. away. The non-disclosure of Monica about her personal background is too convenient an excuse to locate her. The same can be said of the letters returned to him which were allegedly lost in his voyage. The claim that he immediately asked leave from the Captain of his ship in January 1983 is doubtful as he arrived in Antique sometime in November of that year, a good 9 months thereafter.</li> </ul>
Lukban vs. Republic	<ul style="list-style-type: none"> <li>- Lourdes Lukban has legal capacity to contract another marriage on the basis of declaration of presumptive death of her husband who has been absent for more than 20 years. In addition to that, the petitioner has a well-founded belief that her husband is already dead after using all the means to find him.</li> </ul>
Armas vs. Calisterio	
Republic vs. Alegro	<ul style="list-style-type: none"> <li>- In this case, the respondent failed to present a witness other than <i>Barangay</i> Captain Juan Magat. The respondent even failed to present Janeth Bautista or Nelson Abaenza or any other person from whom he allegedly made inquiries about Lea to corroborate his testimony. The respondent also failed to make inquiries from his parents-in-law regarding Lea's whereabouts before filing his petition in the RTC. It could have enhanced the credibility of the respondent had he made inquiries from his parents-in-law about Lea's whereabouts considering that Lea's father was the owner of Radio DYMS. The respondent did report and seek the help of the local police authorities and the NBI to locate Lea, but it was only an afterthought. He did so only after the OSG filed its notice to dismiss his petition in the RTC.</li> <li>- Thus respondent was not able to establish that he had a well-founded belief of his wife's death.</li> </ul>

<ul style="list-style-type: none"> <li>Articles 45-46</li> </ul>	
Anaya vs. Paraloan	<ul style="list-style-type: none"> <li>The non-disclosure by the husband of a premarital relationship with another woman is NOT a ground for the annulment of the marriage.</li> </ul>
Buccat vs. Buccat	<ul style="list-style-type: none"> <li>Even assuming that the annulment is based on the fact that at the time of the marriage, defendant was pregnant by a man other than her husband, there would still be no ground because the law is explicit. There should have been a concealment of such fact. If the defendant was already about 6 months pregnant at the time of marriage, there can be no possibility of concealment. At such an advanced stage of pregnancy, concealment would be impossible.</li> </ul>
Aquino vs. Delizo	<ul style="list-style-type: none"> <li>Concealment of the wife the fact that at the time of the marriage she was pregnant by a man other than his husband constitutes fraud and is a ground for annulment of marriage.</li> </ul>
Jimenez vs. Cañizares	<ul style="list-style-type: none"> <li>The presumption is in favor of potency. The lone testimony of the husband that his wife is physically incapable of sexual intercourse is insufficient to tear asunder the ties that have bound them together as husband and wife.</li> <li>Whether the wife is really impotent cannot be deemed to have been satisfactorily established, because from the commencement of the proceedings until the entry of the decree she had abstained from taking part therein. Although her refusal to be examined or failure to appear in court show indifference on her part, yet from such attitude the presumption arising out of the suppression of evidence could not arise or be inferred, because women of this country are by nature coy, bashful and shy and would not submit to a physical examination unless compelled to by competent authority.</li> </ul>
<ul style="list-style-type: none"> <li>Articles 48-49</li> </ul>	
Sin vs. Sin	<ul style="list-style-type: none"> <li>The task of protecting marriage as an inviolable social institution requires vigilant and zealous participation and not more <i>pro-forma</i> compliance. The protection of marriage as a sacred social institution requires not just the defense of a true and genuine union but the exposure of an invalid one as well.</li> </ul>
Ocampo vs. Florenciano	<ul style="list-style-type: none"> <li>Where there is evidence of adultery independently of the defendant's statement agreeing to the legal separation, the decree of legal separation should be granted since it would not be based on the confession but upon the evidence presented by the plaintiff. What the law prohibits is a judgment based exclusively on defendant's confession.</li> </ul>
Tuason vs. CA	<ul style="list-style-type: none"> <li>Article 48 of the Family Code is inapplicable. The role of the prosecuting attorney or fiscal in annulment of marriage and legal separation proceedings is to determine whether collusion exists between the parties and to take care that the evidence is not suppressed or fabricated. Petitioner's vehement opposition to the annulment proceedings negates the conclusion that collusion existed between the parties. There is no allegation by the petitioner that evidence was suppressed or fabricated by any of</li> </ul>

	<p>the parties. Under these circumstances, we are convinced that the non-intervention of a prosecuting attorney to assure lack of collusion between the contending parties is not fatal to the validity of the proceedings in the trial court.</p>
<p>IV. Legal Separation (Articles 55-67)</p>	
Lapuz-Sy vs. Eufemio	<ul style="list-style-type: none"> <li>- An action for legal separation which involves nothing more than the bed-and-board separation of the spouses (there being no absolute divorce in this jurisdiction) is purely personal. Being personal in character, it follows that the death of one party to the action causes the death of the action itself <i>actio personalis moritur cum persona</i>.</li> </ul>
Gaudencio vs. Penarada	<ul style="list-style-type: none"> <li>- A decree of legal separation, on the ground of concubinage, may be issued upon proof by preponderance of evidence in the action for legal separation. No criminal proceeding or conviction is necessary.</li> </ul>
Bugayong vs Ginez	
Brown vs. Yambao [54 O.G. 1827 (1957)]	<ul style="list-style-type: none"> <li>- In an action for legal separation on the ground of adultery filed by the husband, even though the defendant wife did not interpose the defense of prescription, nevertheless, the courts can take cognizance thereof, because actions seeking a decree of legal separation or annulment of marriage, involve public interest, and it is the policy of our law that no such decree be issued if any legal obstacles thereto appear upon the record. Also, the husband was guilty of commission of the same offense by living with another woman.</li> </ul>
Pacete vs. Carriaga	
Macadangdang vs. CA [108 SCRA 314 (1981)]	<ul style="list-style-type: none"> <li>- The death of a spouse AFTER a final decree of legal separation has no effect on the legal separation. The law clearly spells out the effect of a final decree of legal separation on the conjugal property. Therefore, upon the liquidation and distribution conformably with the effects of such final decree, the law on intestate succession should take over the disposition of whatever remaining properties have been allocated to the deceased spouse.</li> </ul>
<p>V. Rights and Obligations Between Husband and Wife (Articles 68-73)</p>	
<ul style="list-style-type: none"> <li>• Article 68</li> </ul>	
Potenciano vs. CA	
Goitia vs. Campos-Rueda	
Ty vs. CA	
Ilusorio vs. Bildner	<ul style="list-style-type: none"> <li>- The law provides that the husband and the wife are obliged to live together, observe mutual love, respect and fidelity. The sanction therefor is the "spontaneous, mutual affection between husband and wife and not any legal mandate or court order" to enforce consortium. The Court defined empathy as a shared feeling between husband and wife experienced not only by having spontaneous sexual intimacy but a deep sense of spiritual communion. Marital union is a two-way process. Marriage is definitely for two loving adults who view the relationship with "amor gignit amorem" respect, sacrifice and a continuing commitment to</li> </ul>

	togetherness, conscious of its value as a sublime social institution.
• Article 69	
Romualdez vs. COMELEC	- "Residence" is used to indicate a place of abode, whether permanent or temporary, while "domicile" denotes a fixed permanent residence to which, when absent, one has the intention of returning.
• Article 73	
Ayala Investments vs. CA	- The fruits of the paraphernal property, which form part of the assets of the conjugal partnership, are subject to the payment of the debts and expenses of the spouses (including those incurred in the legitimate exercise of industry or profession), but not to the payment of the personal obligations (guaranty agreements) of the husband, unless it is proved that such obligations were productive of some benefit to the family. There must be the requisite showing of some advantage, which clearly accrued to the welfare of the spouses. - If the money or services are given to another person or entity, and the husband acted only as a surety or guarantor, that contract cannot, by itself, alone be categorized as falling within the context of "obligation for the benefit of the conjugal partnership."
VI. Property Relations in Marriages	
• Article 87	
Agapay vs. Palang	- Donation is invalid in cases of cohabitation when a man and a woman who are not capacitated to marry each other live exclusively with each other as husband and wife without the benefit of marriage or under a void marriage.
Arcaba v. Tabancura Vda. De Batocael	- The court in this case considered a sufficient proof of common-law relationship wherein donation is not valid. Cohabitation means more than sexual intercourse, especially when one of the parties is already old and may no longer be interested in sex –at the very least, cohabitation is the assumption of men and women of the marital relation, and dwelling together as man and wife.
San Luis vs. San Luis	
• Articles 94-96	
Uy vs. CA	- Administration does not include disposition and encumbrance.
• Article 101	
Dela Cruz vs. Dela Cruz	
Partosa-Jo vs. CA	- Abandonment implies a departure by one spouse with the avowed intent never to return, followed by a prolonged absence without just cause, and without in the meantime providing in the least for one's family although able to do so. There must be absolute cessation of marital relations, duties and rights, with the intention of perpetual separation. In this case, physical separation, coupled with the refusal by the private respondent to give support to the petitioner, sufficed to constitute abandonment as a ground for judicial separation of their conjugal property.
• Article 102	
BA Finance Corp. vs. CA	
Johnson & Johnson vs. CA	- The husband cannot be held liable for the debts of the wife which were incurred without the husband's consent and which did not benefit the conjugal partnership. Only the wife and her paraphernal property can be held liable. And since the power of the court in execution of judgments extends only to properties unquestionably

	belonging to the judgment debtor alone, the conjugal properties and the capital of the husband cannot be levied upon.
<ul style="list-style-type: none"> <li>• Article 109</li> </ul>	
Spouses Laperal vs. Spouses Katigbak	
Villanueva vs. IAC	<ul style="list-style-type: none"> <li>- If the properties are acquired during the marriage, the property is conjugal. The burden of proof is on the party claiming that they are not conjugal.</li> <li>- Whether a property is conjugal or not is determined by law and not by the will of one of the spouses. No unilateral declaration by one spouse can change the character of conjugal property.</li> </ul>
<ul style="list-style-type: none"> <li>• Articles 115-116</li> </ul>	
BPI vs. Posadas	<ul style="list-style-type: none"> <li>- Case at bar: A husband insured himself during his marriage and made his estate, not his wife, as his beneficiary. The premiums paid were borne by the conjugal partnership. Later, the husband died.</li> <li>- The heirs of the husband as well as the wife are entitled to the proceeds of the insurance. The proceeds of a life insurance policy payable to an insured person's estate, on which the premiums were paid by the conjugal partnership, constitute conjugal property, and belong one-half exclusively to the husband and the other half to the wife. If the premiums were paid partly with separate property, and partly with conjugal funds, the proceeds are in like proportion separate in part, and conjugal in part. This is the just interpretation of the article. To have the estate as the sole beneficiary would be to sanction a fraud upon the wife.</li> </ul>
Wong vs. IAC	<ul style="list-style-type: none"> <li>- The properties were acquired during the marriage and in the absence of proof that they are exclusive property of the husband, they are presumed to be conjugal property. They cannot answer for the personal indebtedness of one spouse as his or her rights to her share are inchoate and only materialize upon dissolution of the property.</li> </ul>
<ul style="list-style-type: none"> <li>• Articles 121-122</li> </ul>	
Ayala Investments vs. CA	<ul style="list-style-type: none"> <li>- The fruits of the paraphernal property, which form part of the assets of the conjugal partnership, are subject to the payment of the debts and expenses of the spouses (including those incurred in the legitimate exercise of industry or profession), but not to the payment of the personal obligations (guaranty agreements) of the husband, unless it is proved that such obligations were productive of some benefit to the family. There must be the requisite showing of some advantage, which clearly accrued to the welfare of the spouses.</li> <li>- If the money or services are given to another person or entity, and the husband acted only as a surety or guarantor, that contract cannot, by itself, alone be categorized as falling within the context of "obligation for the benefit of the conjugal partnership."</li> </ul>
Carlos vs. Abelardo	<ul style="list-style-type: none"> <li>- A loan obtained to purchase the conjugal home may be charged against the conjugal partnership as it has redounded to the benefit of the family. Notwithstanding, therefore, the alleged lack of consent of the other spouse, under Art. 121, the husband shall be solidarily liable for the loan together with his wife.</li> </ul>
VII. Property Regime of Unions without Marriage	
<ul style="list-style-type: none"> <li>• Article 147</li> </ul>	



Malilin vs. Castro	- Art 148 provides that properties acquired through the parties joint contribution of money, property or industry shall be owned by them in common in proportion to their contributions which, in the absence of proof to the contrary, is presumed to be equal. The determination of the contributions needs to be made in a judicial proceeding as it requires a finding of facts.
Valdes vs. RTC	- In a void marriage, regardless of the cause the property of the parties during the period of cohabitation is governed by Art 147 or 148 as the case may be. Art 147 applies to a void marriage where the parties are capacitated to marry each other. On the other hand Art 148 applies to void marriages where the parties suffer from an impediment to marry each other.
Francisco vs. Master Iron Works Construction Corp.	- Where the parties are in a void marriage due to a legal impediment that invalidates such marriage, apply Art. 148. Absent proof that the wife/husband has actually contributed money, property or industry to the properties acquired during such union the presumption of co-ownership will not arise.
• Article 148	
Agapay vs. Palang	- An actual contribution is required under Art 148 in contrast to art 147 where care and maintenance of the family and the home will suffice. Absent actual proof of such contribution, no co-ownership
Juaniza vs. Jose	- A married man is the registered owner of a jeepney which was involved in an accident and was held liable for damages. His common-law wife cannot claim co- ownership over the jeepney because Art. 144 CC (Art. 147 FC) applies only when the parties are not incapacitated to marry. Hence, the jeepney belongs to the conjugal partnership with the lawful wife. The common-law wife not being the registered owner cannot be held liable for damages caused by its operation.
Tumlos vs. Fernandez	
VIII. The Family as an Institution	
• Article 149	
Docena vs. Lapesura	(?) – Unlike an act of alienation or encumbrance where the consent of both spouse is required, joint management or administration does not require that the husband and the wife always act together. Each spouse may validly exercise full power of management alone, subject to the intervention of the court in proper cases. The husband, therefore, can file against the conjugal property with the Court of Appeals without being joined by his wife. The reason is that it is a mere act of administration
• Article 150	
Martinez vs. Martinez	
Hontiveros vs. RTC	
• Article 151	
Manalo vs. CA	
Albano vs. Gapusan	
IX. The Family Home (Articles 152-162)	
Modequillo vs. Brevia	- The provision of Article 162 does not mean that Arts. 152 and 153 have a retroactive effect such that all family residences are deemed to have been constituted as family homes at the time of their occupation prior to the effectivity of the Family Code and are exempt from execution for the payment of obligations incurred

	before the effectivity of the Family Code. Art. 162 simply means that all existing family residences at the time of the effectivity of the Family Code are considered family homes and are prospectively entitled to the benefits according to a family home under the Code. Art. 162 does not state that the provisions of Chapter 2, Title V have a retroactive effect.
Manacop vs. CA	- Those enumerated in Art. 154 may include the in-laws where the family home is constituted jointly by the husband and wife. But the law definitely excludes maids and overseers. They are not the beneficiaries contemplated by the Code. Consequently, occupancy of a family home by an overseer is insufficient compliance with the law.
X. Paternity and Filiation	
• Article 166	
Andal vs. Macaraig	- The fact that the husband was seriously sick (suffering from tuberculosis) is not sufficient to overcome the presumption of legitimacy. There are cases where persons suffering from TB can do the carnal act even in the most crucial stage of health because then they seem to be more inclined to sexual intercourse. This presumption can only be rebutted by proof that it was physically impossible for the husband to have had access to his wife during the first 120 days of the 300 days next preceding the birth of the child. Impossibility of access by husband to wife would include absence during the initial period of conception, impotence which is patent, and incurable; and imprisonment, unless it can be shown that cohabitation took place through corrupt violation of prison regulations. The fact that the wife had illicit intercourse with a man other than the husband during the initial period does not preclude cohabitation between said husband and wife.
Benitez-Badua vs. CA	- As between the paternity by the husband and the paternity by the paramour, all the circumstances being equal, the law is inclined to follow the former. Thus, the child is given the benefit of legitimacy.
• Article 167	
Concepcion vs. CA	
• Articles 170-171	
Liyao vs. Liyao	
• Article 172	
Eceta vs. Eceta	
Constantino vs. Mendez	- The standard of proof required to establish one's filiation is founded on the principle that an order for recognition and support may create an unwholesome atmosphere or may be an irritant in the family of the parties, so that it must be issued only if paternity or filiation is established by clear and convincing evidence.
Bernabe vs. Alejo	
Jison vs. CA	
• Article 173	
Conde vs. Abaya	
• Article 176	
Marquino vs. IAC	-
• Articles 177-180	
Angeles vs. Tabiliran	
XI. Adoption	

Teotico vs. Del Val	
• Domestic Adoption Act of 1998	
Republic vs. CA and Bobiles	
Tamargo vs. CA	
XII. Support (Articles 194-208)	
Javier vs. Lucero	
Goitia vs. Campos-Rueda	
De Asis vs. De Asis	
XIII. Parental Authority	
Espiritu vs. CA	- Whether a child is under or over seven years of age, the paramount criterion must always be the child's interest. Discretion is always given to the court to decide who can best assure the welfare of the child, and award the custody on the basis of that consideration.
Exconde vs Capuno	- Capuno, a student and a Boy Scout, attended a Rizal Day parade, drove a jeep recklessly resulting in the death of two passengers. Father was held solidarily liable for damages. SC, in an obiter, exculpated the school (not a party to the case) on the ground that it was not a school of arts and trades. Justice JBL Reyes, with whom Padilla concurred, dissented arguing that it was the school authorities who should be held liable. Liability under this rule, he said, was imposed on (1) teachers in general; and 2) heads of schools of arts and trades in particular. The modifying clause "of establishment of arts and trades should apply only to "heads" and not to "teachers".
Mercado vs CA	(elaborates on the Exconde decision) - A student cut a classmate with a razor blade. Parents of victim sued the culprit's parents for damages. SC held in an obiter again (school not a party again) that the school was not liable; it's not an establishment of arts and trades. Custody requirement had not been proved as this "contemplates a situation where the student lives and boards with the teacher, such that the control, direction and influence on the pupil supersedes those of the parents.
Palisoc vs Brillantes [41 SCRA 548]	- (supersedes obiter in Exconde and Mercado) A 16 year old student killed by classmate with fist blows in the school laboratory. Although wrongdoer was already of age and was not boarding with the school, head and teacher were held solidarily liable with him. The phrase "so long as (the students) remain in their custody" means the protective and supervisory custody that the school and its heads exercise over the pupils and students for as long as they are at attendance in the school, including recess time. There is nothing in the law that requires that for such liability to attach, the pupil or student who commits the tortious act must live and board in the school as erroneously held by the lower court, and the dicta in Mercado (as well as in Exconde on w/c it relied) w/c must now be deemed to have been set aside.  - Note: (By JBL) Even students already of age were covered

	by the provision since they were equally in the custody of the school and subject to its discipline.
Amadora vs. CA [160 SCRA 315]	<ul style="list-style-type: none"> <li>- Case at bar: Amadora's son was shot to death by Daffon, a classmate at school auditorium. The son was in school to submit physics project. The school contends that the semester had already ended.</li> <li>- It is immaterial whether the semester has already ended for students were there for a legitimate purpose. He was still in the custody of the school authorities. Even the mere savoring of the company of his friends in the school premises is a legitimate purpose w/c would also bring him in the custody of the school. The school principal and dean are not liable because they are not teachers-in-charge, but are merely exercising general authority, not direct control and influence. But even the teacher-in-charge is not liable because there is no showing that the teacher was negligent in enforcing discipline upon Daffon nor had he waived observance of school rules and regulations. His absence when the tragedy happened cannot be considered against him bec. he was not supposed or required to report to school on that day. So who is liable here? It's probably the dean of the boys. He had earlier confiscated an unlicensed gun from one of the students and returned it to the latter w/o taking disciplinary action or reporting the matter to higher authorities. But while he was clearly negligent, it does not necessarily link him to the shooting since it was not shown that the gun was the one used to kill petitioner's son. Who is really liable here? Nobody, since none of them was found to have been charged w/ the custody of the offending student, or has been remiss in the discharge of his duties. While the court deeply sympathizes w/ the petitioners, the court cannot extend material relief as a balm to their grief.</li> </ul>
Pasco vs CFI [160 SCRA 784]	<ul style="list-style-type: none"> <li>- Art. 2180, NCC which refers to liability of teachers or heads of establishments of arts and trades for damages caused by students who are in their custody, does not apply to the school or the university itself or to educational institutions which are not schools of arts and trades. The provision concerned speaks only of "teachers or heads."</li> </ul>
Ylarde vs. Aquino [163 SCRA 697]	<ul style="list-style-type: none"> <li>- As regards the principal, We hold that he cannot be made responsible for the death of child Ylarde, he being the head of an academic school and not a school of arts and trades. xxx Under Art. 2180, it is only the teacher and not the head of an academic school who should be answerable for torts committed by their students. This Court went on to say that in a school of arts and trades, it is only the head of the school who can be held liable.</li> <li>- Where the school is academic rather than technical or vocational in nature, responsibility for the tort committed by the student will attach to the teacher in charge of such student following the first par. of the provision. This is the gen. rule. In the case of establishments of arts and trades, it is the head thereof, and only he, who shall be held liable as an exception to the gen. rule. In other words, teachers in general shall be liable for the acts of their students except where the school is technical in nature, in w/c case it is the head thereof who shall be answerable.</li> </ul>

St. Mary's Academy vs. Carpetanos	<ul style="list-style-type: none"> <li>- Authority and responsibility shall apply to all authorized activities whether inside or outside the premises of the school, entity or institution. Thus, such authority and responsibility applies to field trips, excursions, and other affairs of the students outside the school premises whenever authorized by the school or its teachers.</li> </ul>
Salvosa vs IAC [166 SCRA 274]	<ul style="list-style-type: none"> <li>- Under the penultimate par. of Art. 2180, teachers or heads of establishments of arts and trades are liable for "damages caused by their pupils and students or apprentices, so long as they remain in their custody." The rationale of such liability is that so long as the student remains in the custody of a teacher, the latter "stands, to a certain extent, in <i>loco parentis</i> (as to the student) and (is) called upon to exercise reasonable supervision over the conduct of the (student.) Likewise, "the phrase used in (Art. 2180)-- so long as the (students) remain in their custody' means that the protective and supervisory custody that the school and its heads and teachers exercise over the pupils and students for as long as they are at <i>attendance in the school</i>, including recess time.</li> </ul>
Tamargo vs. CA	
Libi vs. IAC	<ul style="list-style-type: none"> <li>- The diligence of a good father of a family required by law in a parent and child relationship consists, to a large extent, of the instruction and supervision of the child. Absent a showing of such diligence the parents are directly and primarily liable for the damages arising from the acts of their child.</li> </ul>
Luna vs IAC [137 SCRA 7]	<ul style="list-style-type: none"> <li>- The manifestation of the child Shirley that she would kill herself or run away from home if she should be taken away from the petitioners (grandparents) and forced to live w/ her natural parents is a circumstance that would make the execution of the judgment in the special proc. inequitable, unfair, unjust, if not illegal. The threat may be proven empty, but Shirley has a right to a wholesome family life that will provide her w/ love, care and understanding, guidance and counseling, and moral and material security. But what if the threat is for real. Besides, in her letters to the members of the court, Shirley depicted her biological parents as selfish and cruel and who beat her often; and that they do not love her. To return her to the custody of the private resps. would be traumatic and cause irreparable damage to the child.</li> </ul>
<b>CIVIL CODE PROVISIONS</b>	
Use of Surnames (Articles 364-380)	
Laperal vs. Republic	
Llaneta vs. Agrava	<ul style="list-style-type: none"> <li>- the doctrine that disallows such change of name as would give the false impression of family relationship remains valid but only to the extent that the proposed change of name would in great probability cause prejudice or future mischief to the family whose surname it is that is involved or to the community in general</li> <li>- Case: Teresita's mother, Anatacia Llaneta, was once married to Serafin Ferrer w/ whom she had but 1 child. In 1942 Serafin F. died and about 4 yrs. later Anatacia had relations w/ another man out of w/c Teresita was born. Shortly after Teresita's (T) birth,</li> </ul>

	<p>Atanacia (A) brought her to Mia. where all of them lived w/ A's mother-in-law, Victoria vda. de Ferrer. T was raised in the household of the Ferrers, using the surname of Ferrer in all her dealings and throughout her schooling. When she was about 20 yrs. old, she applied for a copy of her birth cert. in Irosin, Sorsogon, where she was born, as she was required to present it in connection w/ a scholarship granted to her. It was then that she discovered that her registered surname is Llaneta-- not Ferrer-- and that she is the illegitimate child of A and an unknown father. On the ground that her use thenceforth of the surname of Llaneta, instead of Ferrer, w/c she had been using since she acquired reason ,would cause untold difficulties and confusion, T petitioned the court below for change of name. After trial, resp. Judge, denied her petition. Hence, the present recourse.</p> <ul style="list-style-type: none"> <li>- The petition is granted. The petitioner has established that she has been using the surname Ferrer for as long as she can remember; that all her records in school and elsewhere, put her name down as T. Ferrer; that her friends and associates know her only as T. Ferrer; and that even the late Serafin F.'s nearest of kin have tolerated and still approve of her use of the surname Ferrer. Indeed, a sudden shift at this time by the petitioner to the name of T Llaneta (in order to conform to that appearing in the birth cert.) would result in confusion among the persons and entities she deals w/ and entail endless and vexatious explanations of the circumstances of her new name. The petitioner has established that she has been using the surname Ferrer for as long as she can remember; that all her records in school and elsewhere, put her name down as T. Ferrer; that her friends and associates know her only as T. Ferrer; and that even the late Serafin F.'s nearest of kin have tolerated and still approve of her use of the surname Ferrer.</li> </ul>
Calderon vs. Republic	<ul style="list-style-type: none"> <li>- A child may successfully petition to change his surname from the real father's name to that of the stepfather, who has no objection thereto. An illegitimate child need not bear the stigma of illegitimacy during his whole lifetime. The change of name allowed in Rule 103 of the Rules of Court does not alter one's status, rights, duties, or citizenship. It merely changes the appellation by which a person is known, identified, or distinguished from others.</li> </ul>