

French Civil Code

BOOK III. Of The Different Modes Of Acquiring Property.

TITLE IX.

OF THE CONTRACT OF PARTNERSHIP.

Decreed the 8th of March, 1804. Promulgated the 18th of the same Month.

CHAPTER I.

General Ordinances.

1832. Partnership is a contract by which two or more persons agree to put something in common, with a view to share the benefit which may result therefrom.
1833. Every partnership must have a lawful object, and be contracted for the common interest of the parties. Every partner must bring thereto either money or other property, or his skill.
1834. Every partnership must be reduced to writing when the object is of a value exceeding one hundred and fifty francs. Testimonial proof is not admitted against or beyond what is contained in the act of partnership, nor touching that which shall be alleged to have been made before, at the time, or subsequently to such act, although the question be of a sum or value less than one hundred and fifty francs.

CHAPTER II.

Of the different Species of Partnerships.

1835. Partnerships are general or particular.

SECTION I.

Of general Partnerships.

1836. Two sorts of general partnerships may be distinguished, a partnership of all present property, and a general partnership of profits.
1837. A partnership of all present property is that by which the parties put in common all the property moveable or immoveable of which they are actually possessed, and the profits which they may draw therefrom. They may also comprehend therein every other species of profits; but the property which may accrue to them by succession, donation, or legacy, does not enter into such partnership, except for enjoyment; every stipulation tending to make the ownership of such property form part thereof, is prohibited, saving between married persons, and conformably to what has been ordained respecting them.
1838. A general partnership of profits includes all that the parties shall acquire by their industry, by whatsoever title it may be, during the course of the partnership; the moveables which each of the partners possesses at the time of the contract are also comprised therein; but their personal immoveables are included therein for enjoyment only.
1839. The simple agreement of general partnership, made without any explanation, imports only a general partnership of profits.

1840. No general partnership can take place but between persons respectively capable of mutually giving and receiving, and to whom it is not forbidden to derive advantage at the expense of other persons.

SECTION II.

Of particular Partnerships.

1841. Particular partnership is that which applies only to certain determinate objects, or to their use, or to fruits to be reaped therefrom.

1842. The contract by which several persons are associated, either for a proposed undertaking or for the exercise of some trade or profession, is also a particular partnership.

CHAPTER III.

Of the Engagements of Partners among themselves, and with regard to third Persons.

SECTION I.

Of the Engagements of Partners to each Other.

1843. The partnership commences at the very instant of the contract, if it do not point out another period.

1844. If there be no agreement concerning the duration of the partnership, it is taken to have been contracted for the whole life of the partners, subject to the modification contained in article 1869; or if an affair be in question of which the duration is limited, for the whole time which such affair continues.

1845. Each partner is debtor to the partnership in all which he has promised to contribute thereto.

When such contribution consists of a certain property, and the partnership is evicted therefrom, the partner is surety therefore to the society, in the same manner as a vendor is to his purchaser.

1846. The partner who was to contribute a sum to the partnership, and who has not done so, becomes, absolutely and without demand, debtor for the interest of such sum, computing from the day on which it ought to have been made. It is the same with regard to sums which he has taken from the partnership chest, computing from the day on which he shall have drawn them for his private advantage; The whole without prejudice to more ample damages if there be ground.

1847. The partners who are bound to contribute their skill to the partnership, owe to it an account of all the profits which they have made by the species of industry which is the object of such partnership.

1848. When one of the partners is, on his own private account, a creditor in a sum due towards a person who is found also to owe to the partnership a sum equally due, the deduction of what he receives from such debtor must be made from the credit of the partnership, and from his own in the proportion of the two credits, although he may in his acquittance have directed the entire deduction to be made from his private credit: but if he have expressed in his acquittance that the deduction shall be made entirely from the credit of the partnership, such stipulation shall be executed.

1849. When one of the partners has received his entire share of a common debt, and the debtor has subsequently become insolvent, such partner is bound to contribute what he has received to the common stock, although he may have specially given acquittance *for his share*.

1850. Each partner is bound towards the partnership for damages which he has caused it by his own fault, without being at liberty to balance against such damages the profits which his skill shall have procured to it in other affairs.
1851. If things of which the enjoyment only has been given up to the partnership are certain and determinate objects, which do not consume by use, they are at the risk of the partner who is their proprietor. If such things do consume, if they grow worse by keeping, if they have been destined to be sold, or if they have been given up to the partnership at a valuation contained in an inventory, they are at the risk of the partnership.
- If the thing have been estimated, the partner can only recover the amount of his estimate.
1852. A partner has an action against the partnership, not only on account of sums which he has disbursed for it, but also by reason of obligations which he has contracted bona fide in the affairs of the partnership, and for risks inseparable from the management of them.
1853. When the act of partnership does not determine the share of each partner in the profits or losses, the share of each is in proportion to his contribution to the funds of the partnership. With respect to him who contributes only his skill, his share in the benefit or in the losses is regulated as if his contribution had been equal to that of the partner who contributed the least.
1854. If the partners have agreed to refer to one of themselves or to a third person for the regulation of the shares, such regulations cannot be impeached unless it be evidently contrary to equity. No opposition is admitted on this subject, if more than three months have elapsed since the party who pretends to be injured has had knowledge of the regulation, or if such regulation have received on his part a commencement of execution.
1855. An agreement which would give to one of the partners the whole of the profits is void.
- The same rule holds with a stipulation which would set free from all contribution to losses, sums or effects added to the funds of the partnership by one or more of the partners.
1856. The partner charged with the management by a special clause of the contract of partnership may, notwithstanding the opposition of the other partners, do all acts depending on his management, provided it be without fraud. Such power cannot be revoked without lawful cause, so long as the partnership continues; but if it have been given only by an act subsequent to the contract of partnership, it is revocable like a simple authority.
1857. Where several partners are charged with management without having determinate functions, or without its having been expressed that one cannot act without the other, they may each separately perform all acts of administration.
1858. If it have been stipulated that one of the managers shall do nothing without the other, one cannot act alone, without a new agreement, in the absence of the other, even though the latter shall have been under an actual incapability of concurring in acts of management.
1859. In default of special stipulations touching the mode of management, parties may observe the following rules. 1st. The partners are taken to have mutually given each other the power of managing one for another. What each does is alike valid for the share of his partners without his having obtained their consent; saving the right which

the latter have, or one of them, to oppose the execution before it be concluded. 2d. Each partner may make use of things belonging to the partnership, provided he employ them for the use to which they were destined, and that he do not make use of them contrary to the interest of the partnership, or in such manner as to prevent his partners from making use of them according to their right. 3d. Each partner has a right to oblige his copartners to bear with him expenses necessary to the preservation of the property of the partnership. 4th. One of the partners cannot make alterations in immoveables depending on the partnership, even though he maintain them advantageous to such partnership, if the other partners do not consent thereto.

1860. The partner who is not manager cannot alienate or encumber property, even moveable, which is dependent on the partnership.

1861. Every partner may, without the consent of his co-partners, connect himself with a third person in reference to his own share in the partnership: he cannot, without their consent, connect such person with the partnership, even though he have the management thereof.

SECTION II.

Of the Engagements of Partners with respect to third Persons.

1862. In other partnerships than those for commercial purposes, the partners are not bound jointly and severally by partnership debts, and one of the partners cannot bind the others unless the latter have bestowed on him that power.

1863. Partners are bound towards the creditor with whom they have contracted, each in an equal sum and share, although the share of one of them in the partnership should be less, if the act have not specially restricted the obligation of the latter to the footing of such last-mentioned share.

1864. A covenant that the obligation is contracted on account of the society, binds only the partner contracting and not the others, unless the latter have given him authority, or unless the thing have turned to the benefit of the partnership.

CHAPTER IV.

Of the different Modes by which Partnership is put an end to.

1865. Partnership is put an end to,

1st. By the expiration of the time for which it was contracted;

2d. By the destruction of the object, or the completion of the negotiation;

3d. By the natural death of one of the partners;

4th. By the civil death, interdiction, or embarrassment of one of them;

5th. By the desire expressed by one only or more of them no longer to continue in partnership.

1866. The prolongation of a partnership for a limited time can only be proved by writing invested with the same formalities as the contract of partnership.

1867. When one of the partners has promised to put in common the property in any thing, a loss occurring before the contribution thereof has been effectuated, operates a dissolution of the partnership with reference to all the partners. The partnership is equally dissolved in all cases by the loss of the thing, when the enjoyment only has been put in common, and when the property thereof has continued in the hands of the partner.

But the partnership is not broken up by the loss of the thing of which the property has already been brought into partnership.

1868. If it have been stipulated that in case of the death of one of the partners the partnership shall continue with his heir, or only between the surviving partners, such arrangements shall be followed: in the second case, the heir of the deceased has a right only to a distribution of the partnership, regard being had to the situation of such partnership at the time of the death, and he has no participation in any ulterior claims, except so far as they are a necessary consequence of what was done before the death of the partner whom he succeeds.
1869. Dissolution of partnership by the desire of one of the parties applies only to partnerships of which the duration is unlimited, and is effected by a renunciation notified to all the partners, provided such renunciation be bona fide and not made at an unseasonable time.
1870. The renunciation is not bona fide when the partner renounces in order to appropriate to himself alone a profit which the partners had proposed to draw in common.
It is made unseasonably when objects are no longer entire, and it imports the partnership that the dissolution should be deferred.
1871. Dissolution of partnerships for a term cannot be demanded by one of the partners before the period agreed on, except so far as there shall be just grounds therefor, as when another partner fails in his engagements, or when habitual infirmity renders him inadequate to the business of the partnership, or other similar cases of which the lawfulness and importance are left to the determination of the judges.
1872. The rules relating to the distribution of successions, the form of such distribution, and the obligations which result therefrom between coheirs, are applicable to distributions between partners.

Disposition relative to Commercial Partnerships.

1873. The dispositions of the present title only apply to commercial partnerships in the points which contain nothing contrary to the laws and usages of commerce.