

French Civil Code

BOOK III. Of The Different Modes Of Acquiring Property.

TITLE XVII.

OF PLEDGING.

Decreed March 16th 1804. Promulgated 26th of the same month.

2071. Pledging is a contract by which a debtor places a thing in the hands of the creditor as security for his debt.

2072. The pledging of a moveable is called pawning. That of an immoveable is called antichresis.

CHAPTER I.

Of Pawning.

2073. Pawning confers upon the creditor the right of paying himself out of the thing which is the object thereof, in preference to all other creditors.

2074. This privilege only takes place where there is a public act or one under private signature, duly enrolled, containing a declaration of the sum due, as well as the description and nature of the things put in pledge, or a statement annexed of their quality, weight, and measure. The reduction of the act to writing and its enrolment are nevertheless only prescribed in a matter exceeding the value of one hundred and fifty francs.

2075. The privilege set forth in the preceding article is only established over moveables incorporeal, such as personal credits, by an act public or under private signature, also enrolled, and notified to the debtor of the credit assigned in pledge.

2076. In all cases the privilege only subsists over the pledge where such pledge has been placed and has continued in the possession of the creditor, or of a third person agreed on between the parties.

2077. The pledge may be given by a third person for the debtor.

2078. The creditor cannot in default of payment dispose of the pledge; saving to him the power of procuring an order of the court that such pledge shall continue with him in payment, and up to its due amount according to an estimate made by competent persons, or that it shall be sold by auction. Every clause which shall authorize the creditor to appropriate the pledge to himself, or to dispose thereof without the above-mentioned formalities, is void.

2079. Until the deprivation of the debtor, if there be ground for it, he continues proprietor of the pledge, which is in the hands of the creditor, a deposit merely for the assurance of the preferable claim of the latter.

2080. The creditor is answerable, according to the rules established under the title "Of Conventional Obligations in General," for the loss or deterioration of the pledge occurring through his negligence. On the other hand, the debtor must settle with the creditor the useful and necessary expenses which the latter has been put to for the preservation of the pledge.

2081. If a credit assigned in pledge be in question, and such credit carry interest, the

creditor must deduct such interest from that which is due to himself. If the debt for the security of which the credit has been assigned in pledge, does not itself carry interest, the deduction is made from the capital of the debt.

2082. The debtor cannot claim the restitution of the pledge, unless the holder thereof abuse it, until he has made entire payment, as well in principal as interest and expenses, of the debt for the security of which the pledge was given. If there exist on the part of the same debtor towards the same creditor another debt contracted subsequently to the handing over of the pledge, and which has become due before the payment of the first debt, the creditor shall not be liable to be dis-seized of his pledge before being entirely paid both debts, even though there should not have been any stipulation to bind the pledge for the payment of the second.

2083. The pledge is indivisible notwithstanding the divisibility of the debt among the heirs of the debtor or those of the creditor. The heir of the debtor who has paid his portion of the debt, cannot demand restitution of his portion of the pledge, so long as the debt is not entirely satisfied. On the other hand, the heir of the creditor who has received his portion of the debt cannot return the pledge to the prejudice of those of his co-heirs who are not paid.

2084. The dispositions above-mentioned are not applicable to subjects of commerce, nor to houses authorized to lend on pledge, and with regard to which the laws and regulations relative to them are to be followed.

CHAPTER II.

Of Antichresis.

2085. Antichresis can only be established in writing. The creditor only acquires by this contract the power of enjoying the fruits of the immoveable, on condition of deducting them annually from the interest, if any be due to him, and afterwards from the capital of his credit.

2086. The creditor is bound, if it be not otherwise agreed thereon, to pay the contributions and annual charges of the immoveable which he holds in antichresis. He must in like manner, under pain of damages, provide for the maintenance and useful and necessary reparations of the immoveable; saving a previous deduction from these fruits of all the expenses relative to these different objects.

2087. The debtor cannot, before the entire acquittance of the debt, claim the enjoyment of the immoveable which he has placed in antichresis. But the creditor who is desirous of discharging himself from the obligations expressed in the preceding article, may always, unless he have renounced such right, compel the debtor to resume the enjoyment of his immoveable.

2088. The creditor does not become proprietor of the immoveable simply by default in payment at the term agreed on: every contrary clause is null: in such case, he may sue for the deprivation of his debtor by legal means.

2089. Where the parties have stipulated that the fruits shall be balanced against the interest, either entirely or up to a certain amount, such agreement may be executed like every other which is not prohibited by the laws.

2090. The dispositions of articles 2077 and 2083 are applicable as well to antichresis as to pawning.

2091. Nothing which is decreed in the present chapter, can prejudice the rights which third persons may have over the immoveables placed in antichresis. If the creditor,

invested with such title, has more-over over the estate privileges and mortgages legally established and reserved, he may exercise them in their order, and in the same manner as every other creditor.