

French Civil Code

BOOK II. Of Property, and the Different Modifications of Property

Decreed the 25th of January, 1804. Promulgated February 4th.

TITLE III.

Of Usufruct, Right of Common, and of Habitation.

Decreed the 30th of January, 1804. Promulgated the 9th of February.

CHAPTER I.

Of Usufruct.

578. Usufruct is the right of enjoying things of which the property is in another, in the same manner as the proprietor himself, but on condition of preserving them substantially.
579. Usufruct is established by the law, or by the consent of man.
580. Usufruct may be established either simply, or to a certain day, or conditionally.
581. It may be established over every species of property, moveable or immoveable.

SECTION I.

Of the Rights of the Usufructuary.

582. The usufructuary has a right to the enjoyment of every species of benefit, whether natural, or artificial or civil, which the object of usufruct is capable of producing.
583. Natural benefits are those which the earth produces spontaneously. The production and increase of animals are also natural fruits.
The artificial fruits of the soil are those which are obtained by cultivation.
584. Civil fruits are rents of houses, interest on sums due, arrears of rent. The value of farms is also ranged under the class of civil fruits.
585. Natural and artificial fruits, hanging by branches and roots at the period when the usufruct commences, belong to the usufructuary.
Those which are in a similar state at the period when the usufruct closes, belong to the proprietor, without recompense on either side for tillage and sowing, but without prejudice also to such portion of the fruits as may be acquired by the joint-cultivator, if there were one at the commencement or cessation of the usufruct.
586. Civil fruits are reputed to accrue from day to day, and belong to the usufructuary, in proportion to the duration of his usufruct. This rule applies to the value of farming leases, as well as to rents of houses and other civil fruits.
587. If the usufruct comprises objects which cannot be used without destroying them, as money, grain, and liquors, the usufructuary has a right to make use of them, but on condition of restoring them at the end of the usufruct in similar quantity, quality, and goodness. or their estimated value.
588. The usufruct of an annuity confers likewise on the usufructuary, during the continuance of his usufruct, a right to the perception of the arrears, without rendering him liable to any restitution.

589. If the usufruct comprehend things which, without being immediately consumed, are deteriorated by little and little in the using, as linen and moveable furniture, the usufructuary has a right to employ them for the purposes to which they were destined, and is only compelled to restore them at the end of his usufruct in the state in which they may then be, not being damaged by his fraud or fault.
590. If the usufruct comprehend underwood, the usufructuary is bound to observe the order and proportionate quantity of his cuttings, conformably to the established usage and custom of proprietors, without indemnity however to be made to the usufructuary or his heirs, for ordinary cutting, whether of underwood, poles, or timber, which may have been omitted during his enjoyment.
Trees which can be removed from a nursery ground without injuring it, do not therefore form part of the usufruct, except on the condition that the usufructuary shall conform to the usage of such places in restoring them.
591. The usufructuary receives the benefit likewise, always conforming to the seasons and custom of the ancient proprietors, of those parts of a wood of tall trees as have been placed in regular cuts, whether such cuts are made periodically over a certain extent of ground, or whether they are made of a certain number of trees taken indiscriminately over the whole surface of the domain.
592. In no other cases can the usufructuary touch full grown timber-trees: he can only employ trees blown down or broken by accident, for the reparations to which he is bound: he may however for that object cause some to be felled in case of necessity, but on condition of making such necessity appear to the proprietor.
593. He may take also in the woods props for vines: he may take also from the trees, their annual or periodical produce: the whole according to the usage of the country or the custom of the proprietors.
594. Fruit-trees which die, those likewise which are torn down or broken by accident, belong to the usufructuary, on condition of replacing them by others.
595. The usufructuary may enjoy in his own person, let on lease to another, or even sell or transfer, his right by gratuitous title. If he lets on lease, he must conform, with regard to the seasons at which leases ought to be renewed and as respects their duration, to the regulations established relative to a husband with regard to the property of a wife, under the title "*Of the Contract of Marriage and of the respective Rights of Married Persons.*"
596. The usufructuary is entitled to the enjoyment of the augmentation accruing by alluvion to the object of his usufruct.
597. He enjoys the right of servitude, toll, and generally all the rights which the proprietor is capable of enjoying, and he enjoys them in the same manner as the proprietor himself.
598. He enjoys also, in the same manner as the proprietor, such mines and quarries as are in a course of working at the commencement of the usufruct; nevertheless if there be question concerning a working which cannot be made without a grant, the usufructuary shall not have the enjoyment thereof until he shall have obtained the permission of government.
He has no right over mines and quarries not yet opened, nor over peat-bog, nor over treasure which may be discovered during the continuance of his usufruct.
599. The proprietor cannot by his own deed, nor in any possible manner, injure the rights of the usufructuary.
The usufructuary on his part cannot at the conclusion of his usufruct claim any

indemnity for improvements which he may pretend to have made, although the value of the thing may have been augmented thereby.

He or his heirs may however carry away mirrors, pictures, and other ornaments which he may have caused to be put up, but on condition of restoring their places to the original state.

SECTION II.

Of the Rights of the Usufructuary.

600. The usufructuary takes things in the state in which they are: but he cannot enter into the enjoyment of them, until he has caused an inventory of the move-able, and a statement of the immoveable objects of the usufruct, to be drawn up in the presence of the proprietor, or after having duly summoned him.
601. He must give security to enjoy like a careful husbandman, unless he be dispensed therefrom by the act constituting the usufruct: nevertheless the father and mother having the legal usufruct of the property of their children, the seller or donor with a reservation of usufruct are not bound to give security.
602. If the usufructuary cannot find security, the immoveables are let on lease or put in sequestration;
Sums comprehended in the usufruct are placed out; Commodities are sold, and the price received therefrom is in like manner placed out;
The interest on such sums and the prices of such leases belong in this case to the usufructuary.
603. In default of security on the part of the usufructuary, the proprietor may require that such moveables as perish in the using should be sold, in order that the price thereof may be placed out like that of the commodities; and then the usufructuary enjoys the interest during his usufruct: the usufructuary however may demand, and the judges are empowered to order, according to circumstances, that one portion of the moveables necessary for his use should be left for him, on his simple security on oath, and on condition of producing them at the expiration of the usufruct.
604. Delay in giving security does not deprive the usufructuary of the fruits to which he may have claim; they are his due from the moment at which the usufruct commences.
605. The usufructuary is only bound to necessary reparations.
Substantial reparations are at the charge of the proprietor, unless they have been occasioned by the neglect of necessary repairs, since the commencement of the usufruct: in which case the usufructuary is also bound to them.
606. Substantial repairs are those of the main walls and vaults, the re-establishment of beams, and entire roofs;
That of ditches and of buttresses, and enclosing walls in entirety;
All other reparations are necessary repairs.
607. Neither the proprietor, nor the usufructuary is bound to rebuild what falls down through age, or what is destroyed by mere accident.
608. The usufructuary is bound, while his enjoyment continues, to all annual charges on the estate, such as contributions and others which by custom are considered charges on the fruits.
609. With respect to charges which may be imposed on property during the continuance of the usufruct, the usufructuary and the proprietor contribute thereto in manner following:
The proprietor is obliged to pay them, and the usufructuary must account to him for

the interest.

If they are advanced by the usufructuary, he has a right to recover them at the end of the usufruct.

610. A legacy given by a testator, of an annuity or alimentary pension, may be acquitted by the general legatee of the usufruct in its entirety, and by the legatee having the general title of usufruct in the proportion of his enjoyment, without any second payment on their part.
611. The usufructuary by particular title is not bound by debts for which the estate is mortgaged: if he be compelled to pay them he has his remedy against the proprietor, saving what is said in article 1020, under the title "*Of Donations during Life and of Wills.*"
612. The usufructuary either general or by general title must contribute with the proprietor to the payment of debts in manner following; An estimate is made of the value of the estate the subject of usufruct, a rate of contribution to debts is then fixed in proportion to such estimate.
If the usufructuary is willing to advance the sum which the estate must contribute, the capital is restored to him at the termination of the usufruct without any interest. If the usufructuary is not willing to make such advance, the proprietor has the election, either to pay such sum, (and in this case the usufructuary must account to him for the interest during the continuance of his usufruct) or to cause a portion of the property subject to usufruct, to the required amount, to be sold.
613. The usufructuary is only bound to the charges of such proceedings at law as regard the enjoyment, and of other judgments to which such proceeding may give rise.
614. If during the continuance of the usufruct a third person is guilty of any usurpation on the estate, or any other attempt against the rights of the proprietor, the usufructuary is bound to give him information against such intruder; in default thereof he is himself responsible for all damage which may result therefrom to the proprietor, as he would be with respect to injuries committed by himself.
615. If the usufruct be established only over an animal which happens to perish without the fault of the usufructuary, the latter is not bound to restore another for it, nor to pay its value.
616. If a flock over which an usufruct has been established perishes entirely by accident or by disease, and without the fault of the usufructuary, the latter is not bound towards the proprietor except to account for the skins or their value.

If the flock does not entirely perish, the usufructuary is bound to replace them, until the increase amounts to the number of those animals which perished.

SECTION III.

Of the Manner in which Usufruct is put an end to.

617. Usufruct is extinguished,
By the natural and civil death of the usufructuary;
By the expiration of the time for which it has been granted;
By the consolidation or union in the same person of the two qualities of usufructuary and proprietor;
By the non-exercise of the right during thirty years;
By the total loss of the object over which usufruct was established.
618. Usufruct may likewise cease by the abuse of which the usufructuary is guilty in his enjoyment, either by committing spoliation upon the estate, or by suffering it to fall to

decay for want of repair.

The creditors of the usufructuary may interfere in controversies, for the preservation of their rights; they may offer amends for spoliation committed, and guarantee for the future.

The judges may, according to the importance of the circumstances, either pronounce the absolute extinction of the usufruct, or give order for the reentry of the proprietor into the enjoyment of the object encumbered therewith, on condition of paying annually, to the usufructuary or his agent, a fixed sum up to the period at which the usufruct would have ceased.

619. Usufruct which is not granted to particular persons, only lasts for thirty years.
620. Usufruct granted until a third person has reached a fixed age, continues until such period, although such third person die before the age fixed.
621. The sale of a thing which is the subject of usufruct makes no alteration in the right of the usufructuary; he continues to enjoy his usufruct unless he has formally renounced it.
622. The creditors of an usufructuary may cause a renunciation made to their prejudice to be annulled.
623. If one part only of the thing subject to usufruct be destroyed, the usufruct is preserved over the remainder.
624. If the usufruct be established over a building only, and such building be destroyed by a fire or other accident, or if it have fallen down through age, the usufructuary shall have no right to the enjoyment either of the soil or the materials.
If the usufruct be established over a domain of which a building forms a part, the usufructuary shall enjoy the soil and the materials.

CHAPTER II.

Of Common and Habitation.

625. The rights of common and of habitation are established and forfeited in the same manner as those of usufruct.
626. A person is incapable, as in the case of usufruct, of enjoying them without previously giving security, and without making lists and inventories.
627. The commoner and he who has a right of habitation ought to enjoy them like careful husbandmen.
628. The rights of common and of habitation are governed by the title which has established them, and receive according to its regulations, more or less extent.
629. If this title is not explicit on the extent of these rights, they are regulated as follows.
630. He who has commonage over the fruits of an estate, cannot exact from thence more than is necessary to him for his own wants and those of his family.
He may exact therefrom for the wants likewise of children who have come to him subsequently to the grant of commonage.
631. The possessor of commonage cannot yield or let his right to another.
632. He who has the right of habitation in a house, may dwell there with his family, even though he should not have been married at the period when such right was conferred upon him.
633. The right of habitation is confined to what is necessary for the habitation of him to

whom such right is conceded, and of his family.

634. The right of habitation can neither be ceded nor hired.

635. If the possessor of commonage absorb the whole fruits of an estate, or if he occupy the entirety of a house, he is subjected to the charges of culture, to necessary reparations, and to the payment of contributions, like an usufructuary.

636. Commonage in woods and forests is regulated by particular laws.