

OBLIGATIONS

General Provisions

ARTICLE 1156 – Definition
An obligation is a juridical necessity to give, to do, or not to do.

Obligation

- are *civil* or *natural*.

(1) Civil Obligations

- give a right of action to compel their performance. Example:
 - Civil Obligation of parents to give support to their children under Family Code

(2) Natural Obligations

- based on equity & natural law.
- do not grant a right of action to enforce their performance
 - but after voluntary fulfillment by the obligor – they authorize the retention of what has been delivered or rendered by reason thereof.

Essential requisites of an obligation.

- 1) A **passive subject** (debtor/obligor) – *bound to perform the prestation*
- 2) An **active subject** (creditor/obligee) – *has the right to demand the prestation*.
- 3) **Object or prestation** (subject matter of the obligation)
 - conduct required to be observed by the debtor.
 - without the prestation, there is nothing to perform.
- 4) A **juridical** or **legal tie** (Vinculum / Vinculum Juris / Efficient Cause)
 - can be any of the 5 sources of obligations.
 - the tie that binds the parties to the obligation.

1.1.2 Sources of Obligations

ARTICLE 1157

Obligations arise from:

- (1) **Law**
- (2) **Contracts**
- (3) **Quasi-contracts**
- (4) **Acts or omissions punished by law**
- (5) **Quasi-delicts**

SOURCES OF OBLIGATIONS				
LAW	CONTRACTS	QUASI-CONTRACTS	ACTS / OMISSIONS PUNISHED BY LAW	QUASI-DELICTS / TORTS / CIVIL NEGLIGENCE
imposed by law itself	▽ arise from the stipulations of the parties. ▽ all the other sources are said to emanate from law, ▽ except: those from contracts	▽ arise from LUV: lawful, unilateral, and voluntary acts. ▽ enforceable to the end that <i>no one shall be unjustly enriched at the expense of another.</i>	▽ Delict / Crime / Felony ▽ punishable by law ▽ arise from civil liability which is a consequence of a criminal offense.	▽ torts or culpa ▽ arise from damage caused to another through an act or omission, there being fault or negligence. ▽ but no contractual relations exist between the parties. ▽ mere fault or negligence without any criminal intent.
KINDS OF OBLIGATIONS – ACCORDING TO SOURCE				
LEGAL OBLIGATIONS	CONTRACTUAL OBLIGATIONS	QUASI-CONTRACT OBL.	CIVIL OBLIGATIONS	
Art. 1158 – Obligations ex lege ▽ are not presumed. ▽ Only those expressly determine in this Code or in special laws are demandable,	Art. 1159 <i>Obligations ex contractu</i> ▽ have the force of law between the contracting parties ▽ should be complied with in good faith.	<i>Obligations ex quasi-contractu</i> (1) Negotiorum gestio – voluntary management of the property or affairs of another without the knowledge or consent of the latter. – does not arise in the ff: a) Unauthorized Contract: b) Contract of Agency	<i>Obligations ex maleficio or ex delicto</i> every person criminally liable for a felony – is also civilly liable .	<i>Obligations ex quasi-delicto or ex quasi-maleficio</i> Requisites: 1) no pre-existing relation 2) act or omission; 3) fault or negligence 4) damage caused 5) direct relation of cause & effect between the omission & the damage

		(2) Solutio indebiti – when something is received when (requisites): a) There is no right to receive the thing delivered b) The thing was delivered through a mistake		
KINDS OF NEGLIGENCE – ACCORDING TO SOURCE OF OBLIGATION				
	Contractual Negligence (<i>Culpa Contractual</i>)		Criminal Negligence (<i>Culpa Criminal</i>)	Civil Negligence (<i>Culpa Aquilina</i>)
	– negligence in contracts resulting in their breach – not a source of obligation		the wrong or negligence in the commission of a crime	itself is the source of an obligation the wrong or negligence committed independent of contract and without criminal intent.

- ☐ **Multiple Sources of Obligations**
A single act can be the source of multiple obligations.
- ☐ **Double Recovery NOT ALLOWED**
No one can recover twice for the same negligent act.

Nature & Effect of Obligations

Real Obligation (To Give)	
SPECIFIC	GENERIC
Thing: Specific or Determinate – particularly designated or physically separated from others of the same class – debtor cannot substitute it with another although it is of the same kind and quality without the consent of the creditor.	Thing: Generic or Indeterminate – refers only to a class or genus to which it pertains – it cannot be pointed out with particularity; identified only by its specie – debtor can give anything of the same class as long as it is of the same kind
Duties of debtor in obligation to give a determinate thing: 1) Preserve or take care of the thing: a. Diligence required by LAW b. Diligence required by STIPULATION c. General: Diligence of a good father of a family (<i>bonus pater familia</i>) 2) Deliver the thing itself 3) Deliver the fruits of the thing (Article 1164) 4) Deliver the accessions & accessories of the thing (Article 1166) 5) Answer for damages in case of non-fulfillment or breach (Article 1170)	Obligation to give something which is indeterminate 1) To deliver a thing which must be neither superior nor inferior quality 2) To pay damages in case of breach of the obligation
Remedies for Breach of Obligation 1. Primary: a. Specific Performance – if legally & physically possible b. Substitute Performance – if (a) is not possible c. Equivalent – convert to monetary obligation d. Rescission – (for reciprocal oblig.) cancellation & mutual restitution 2. Ancillary: (Art. 1177) a. Attachment & Execution → Attachment – “reservation” of real property while case is pending → Execution – when b. Subrogatoria – subrogation c. Accion Pauliana – last resort, subsidiary remedy, same with rescission	Remedies for Breach of Obligation 1. Specific Performance 2. Substitute Performance – the creditor can have another person to have such kind of thing be delivered at the cost of the debtor + damages

Personal Obligations

Positive (to do)	Negative (not to do)
Remedies of the Creditor	Remedies of the Oblige
(1) If the debtor fails to comply with his obligation to do - the creditor has the right: - to have the obligation performed by himself, or by another, unless personal considerations are involved, at the debtor's expense. - to recover damages (2) If it is done in contravention of the terms - the creditor may ask another person to perform the obligation ✓ at the debtor's expense. (3) If it is poorly done - the creditor may ask that it be undone. ✓ at the debtor's expense.	(1) If it is still possible to undo the forbidden thing ▽ undoing of the forbidden thing + damages (2) If it is NOT possible to undo (physically or legally) (3) or because of the rights acquired by a third person in good faith ▽ action for damages caused by the debtor's violation Extra-judicial rescission - when there is no performance yet by both parties but one is ready and willing to comply with what is incumbent upon him - the willing party, may, by his own declaration, rescind the contract

ARTICLE 1170

Liable for damages:

Those who in the **performance** of their obligations are guilty of:

- **fraud**,
- **negligence**,
- **or delay**
- and those who in any manner **contravene the tenor** thereof.

Breach

- when a person fails to or refuses to perform his obligation without legal justification.

Fraud (Deceit or Dolo)	Negligence (Fault or Culpa)	Delay (Default or Mora)	Contravention of the Terms (Violatio)
- the deliberate or intentional evasion of the normal fulfillment of an obligation. - malice or dishonesty. - synonymous to bad faith.	- the failure to exercise the degree of care required by the circumstances. - *See Kinds acc. to Source	- non-fulfillment of obligation with respect to time. - *See Article 1169	- the violation of the terms and conditions stipulated in the obligation or defects in the performance of the obligation.
<u>See below:</u> * Types of Fraud ** Waiver of Fraud	Degree of Care Required: i. As a rule a) Required by law, examples b) Stipulation/agreement of parties ii. Diligence of a good father of a family: in the absence of (i)	*See Section 1169 in the succeeding pages	Liable debtor is bound to indemnify for the losses & damages caused thereby.

*** Types of Fraud**

	Incidental fraud (Dolo Incidente) – performance	Causal fraud (Dolo Causante) – obtaining consent
Definition	committed in the performance of an obligation already existing because of contract.	fraud in obtaining consent during perfection – employed in the execution (process of signing an agreed contract) of a contract under Article 1338 which vitiates consent (VOIDABLE!).

**** Waiver of Fraud**

Past Fraud	Future Fraud
May be considered valid provided public interest are not involved.	VOID – contrary to law & public policy and will encourage commission of crime

ARTICLE 1169 – Delay	
GR	Those obliged to deliver or to do something incur in delay from the time the obligee judicially or extrajudicially demands from them the fulfillment of their obligation. (No Demand, No Delay! Even if there is a date stated, demand as a rule, is still needed to incur delay. The purpose of any stated date pertains to when demand can be made.)
XPN: LTD However, the demand by the creditor shall not be necessary in order that delay may exist:	(1) When the obligation or the law expressly so declares ; or (2) Time is of the essence – When from the nature and the circumstances of the obligation it appears that the designation of the time when the thing is to be delivered or the service is to be rendered was a controlling motive for the establishment of the contract; or (3) When demand would be useless , as when the obligor has rendered it beyond his power to perform (destroyed, transferred, etc.).
In reciprocal obligations, neither party incurs in delay if the other does not comply or is not ready to comply in a proper manner with what is incumbent upon him. From the moment one of the parties fulfill his obligation, delay by the other begins.	

Requisites:

- ✓ The obligation must be demandable and already liquidated.
- ✓ The debtor delays performance of the obligation.
- ✓ The creditor demands the performance either judicially or extrajudicially.

Kinds of Delay or Default

Mora Solvendi	Mora Accipiendi	Compensatio Morae
Delay on the part of the debtor to fulfill his obligation Mora solvendi ex re – real obligation Mora solvendi ex persona – personal obligation	Delay on the part of the creditor to accept the performance of the obligation	– delay of obligors in reciprocal obligations – the delay of one cancels the delay of the other – the net result is that there is no actionable default on the part of both parties
<u>Requisites</u> a) The obligation must be liquidated, due & demandable b) The debtor is guilty of nonperformance c) There was demand made – either judicially or extrajudicially	<u>Requisites</u> a) Offer of performance by debtor b) Refusal of the creditor to accept without first cause	
<u>Effects:</u> ☞ Debtor – liable for damages ☞ Debtor – liable even if the loss is due to fortuitous event ☞ Debtor shall bear the risk of loss – if determinate thing	<u>Effects:</u> ☞ Creditor – shall bear the risk of loss of the thing. ☞ Borne by the creditor – all expenses for the preservation of the thing after the delay. ☞ Creditor – liable for damages.	<u>Effects:</u> ☞ The delays of both parties are compensated or offset ☞ No one will be liable for damages by reason of delay

DIFFERENT KINDS OF OBLIGATIONS

(1) **Primary classification (CPALE focus)**

- a. Pure & Conditional obligations (Art. 1179 – 1192) – As to Perfection & Extinguishment
- b. With a period or term (Art. 1193 – 1198)
- c. Alternative & Facultative obligations (Art. 1199 – 1206) – As to Number of Prestations
- d. Joint & Solidary obligations (Art. 1207 – 1222) + Disjunctive Obligations (*Not covered by the New Civil Code) – As to Rights & Obligations of Multiple Parties
- e. Divisible & indivisible obligations (Art. 1223 – 1225) – As to Performance of Prestation
- f. Obligations with a Penal Clause (Art. 1226 – 1230) – Value of the Prestation

(2) **Secondary classification**

- a. Unilateral & Bilateral
- b. Real & Personal
- c. Determinate & Generic
- d. Civil & Natural
- e. Legal, Conventional, and Penal

(A) PURE & CONDITIONAL OBLIGATIONS – As to Perfection & Extinguishment

Summary: Obligations as to Perfection & Extinguishment

Demandable at Once	With a Condition	With a Period
i. Pure / Simple – no condition, no period	A condition is an uncertain event; may or may not happen	A period is an event that must necessarily come
ii. Obligation with a Resolutive condition/Period	Condition requisites: futurity & uncertainty.	A period will surely come to pass
iii. Obligation with a Suspensive <u>Condition</u> not to do an impossible thing – considered as not written	Condition gives rise to an obligation or extinguishes an existing obligation	A period has no effect upon the existence of an obligation but only its demandability or performance
iv. Obligations with a Period – Debtor loses his right to the period	Condition may refer to a past event and unknown to parties	A period always refers to the future.

Condition vs Period

Condition	Period
an uncertain event	an event that must necessarily come
may or may not happen	will surely come to pass
gives rise to an obligation or extinguishes an existing obligation	has no effect upon the existence of an obligation but only its demandability or performance
may refer to a past event and unknown to parties	always refers to the future

	Pure (Article 1179)	Conditional (Article 1181)	
Definition	Pure Obligation – one without a condition or term, and therefore, demandable at once. Obligation with Resolutive Condition – demandable at once – without prejudice to the effects of the happening of the event	Conditional Obligation – the acquisition of rights / extinguishment or loss of those already acquired shall depend upon the happening of the event which constitutes the condition. Condition – a future and uncertain event, upon the happening of which, the acquisition or extinguishment of an obligation (or right) subject to it depends.	
Classifications		As to Effect / When the obligation should be performed: (a) Suspensive (b) Resolutive As to Cause or Origin (whose will it depends): (a) Potestative – depends on the will of 1 of the contracting parties. (b) Casual – depends on chance. (c) Mixed – depends partly upon chance & partly upon the will of a third person. As to Possibility (whose will it depends): (a) Possible (b) Impossible – physically / legally impossible. As to Mode / Nature: (a) Positive – act (b) Negative – omission	As to Capacity to be performed in parts: (a) Divisible – can be performed in parts (b) Indivisible – cannot be performed in parts As to number of obligations: (a) Conjunctive – all must be performed (b) Alternative – only one must be performed As to whether made known to the other party: (a) Express – stated (b) Implied – merely inferred As to whether the obligation can be fulfilled: (a) Possible – can be fulfilled (b) Impossible – cannot be fulfilled either physically or legally

Retroactive Effects in Suspensive Conditions

Retroactive Effects in Suspensive Conditions		
	Real Obligations: Conditional obligation to give	Personal Obligations: Obligations to do and not to do
Art. 1187 (GR)	The effects of a conditional obligation to give , once the condition has been fulfilled , ∇ shall retroact to the day of the constitution of the obligation.	The courts shall determine, in each case, the retroactive effect of the condition that has been complied with. (1120)
Art. 1187 (XPNs)	Fruits or Interests: 1) Reciprocal Obligations – shall be deemed to have been mutually compensated. 2) Unilateral Obligations – shall insure to the benefit of the debtor. UNLESS: from the nature and circumstances of the obligation it should be inferred that the intention of the person constituting the same was different. Period of Prescription: counted still from the time the condition was fulfilled	
Illustration: GR	On January 1, 2019, Taki promised Mitsuha a specific car if Mitsuha graduates valedictorian from her class. Assume Mitsuha graduates valedictorian from her class on April 11, 2019. When does Mitsuha become the owner of the car? ✓ Mitsuha becomes the owner of the car from January 1, 2019 (ownership retroacts)	
Illustration: XPN – Reciprocal Obligation	On January 1, Miyuki promised Tatsuya to sell him an apartment building if Tatsuya passes the board exam. On May 31, Tatsuya passed the said exam. ⊗ Fruits (rent income) & Interests (on money) – will no longer be given ✓ Simply payment & delivery will happen	
Illustration: XPN – Unilateral Obligation	On January 1, Miyuki promised Tatsuya to give him an apartment building if Tatsuya passes the board exam. On May 31, Tatsuya passed the said exam. ✓ Tatsuya owns the apartment building from Jan 1 ✓ But the rent income from Jan 1 – May 1 belongs to Miyuki	

Effects of fulfillment of resolutive condition

- ✓ The obligation is extinguished.
- ✓ The parties should return or restore to each other what they have received including fruits and interest.

(B) OBLIGATIONS WITH A PERIOD / TERM**ARTICLE 1180 – Obligation with a Period**

When the debtor binds himself to **pay when his means permit him to do so**, the obligation shall be deemed to be one with a period, subject to the provisions of Article 1197.

Period – a **future & certain** event upon the arrival of which the obligation subject to it either arises or is extinguished. The day certain will *necessarily* come.

Kinds of Term

- 1) **Conventional or Voluntary** – agreed upon by the parties.
- 2) **Judicial** – fixed by court.
- 3) **Ex die (Suspensive)** – upon the arrival of the period, the obligation becomes **demandable**.
- 4) **In diem (Resolatory)** – upon the arrival of the period, the obligation is **extinguished**.

ARTICLE 1196 – Benefit of the Period

GR	Whenever in an obligation a period is designated, ✓ it is presumed to have been established for the benefit of BOTH the creditor and debtor .
	Consequences of the above GR: ☞ The debtor – cannot be made to pay before the period . ☞ The creditor – cannot be made to accept payment before the period .
XPN	Unless from the tenor of the same or other circumstances, it should appear to have been established in favor of one or of the other.

ARTICLE 1198 – Debtor's Loss of Benefit of the Period

ARTICLE 1198 – Debtor's Loss of Benefit of the Period	
The debtor shall lose every right to make use of the period: [The obligation becomes immediately demandable!]	Benefit of the period remains:
(1) When after the obligation has been contracted, he becomes insolvent (even without judicial declaration)	✓ unless he gives a guaranty or security for the debt; Note: Not enough na nag "promise" lang – dapat na GIVE!
(2) When he does not furnish to the creditor the guaranties or securities which he has promised;	
(3) When by his own acts he has impaired said guaranties or securities after their establishment, and when through a fortuitous event they disappear	✓ unless he immediately gives new ones equally satisfactory
(4) When the debtor violates any undertaking , in consideration of which the creditor agreed to the period	
(5) When the debtor attempts to abscond ⊗ a sign of bad faith & intention not to comply with the obligations ⊗ what is material is the intent of the debtor in absconding	XPN: If he merely went out of the country for a vacation – no intention to defraud the creditor.

(C) ALTERNATIVE & FACULTATIVE OBLIGATIONS

Kinds of Obligations – According to Number of Prestation

(1) Simple Obligation	(2) Compound Obligation		
only 1 prestation	2 or more prestation		
	(a) Conjunctive Obligation	(b) Distributive Obligation	
	ALL prestation must be fulfilled to extinguish the obligation	2 or more of the prestations are due	
	usually use the word “and”	Alternative	Facultative
		Several prestations are due but the performance of 1 is sufficient – (“or”)	Only 1 prestation is due but the debtor may substitute another.
		GR: Debtor has the right of Choice XPNs: a) expressly granted to the creditor b) when given to a third party “Concentration” the choice, to take effect, must be communicated.	Debtor: Has the Right to Substitute but he cannot be compelled to make the substitution. The right of choice can never be granted to creditor.
		Illegality/impossibility of 1 prestation does not invalidate the whole obligation as long as there are remaining valid prestation	Illegality/impossibility of the prestation invalidates the whole obligation even if the substitute is valid

(D) JOINT & SOLIDARY OBLIGATIONS

	JOINT	SOLIDARY
Key words / Other terms	“PROPORTIONATE” or “SHARE” Pro rata Jointly Conjoint Proportionate Mancomunada Mancomunada simple	“ENTIRE” Jointly and Severally In solidum Mancomunada solidaria Juntos o separadamente Individually and collectively
Definition	JOINT OBLIGATION – each debtor is liable only for a proportionate part of the debt. – each creditor is entitled only to a proportionate share of the credit. – each debt/credit is considered independent of each other.	SOLIDARY OBLIGATION – each debtor is liable for the compliance of the ENTIRE obligation – each creditor is entitled to demand the compliance of the ENTIRE obligation.
The obligation arises when:		<u>*See cells below for details</u> - The obligation expressly so states (Stipulated) - When the law requires it - When the nature of the obligation requires solidarity
(i) If the problem is silent	Default assumption is JOINT & EQUAL SHARING (This presumption is rebuttable) When the share of the rights and obligations of the creditors and debtors are not specified - There are as many debts as there are debtors; - There are as many credits as there are creditors; - The debts and/or credits are considered distinct and separate from one other; Each debtor is liable only for a proportionate part of the debt; and - Each creditor is entitled only to a proportionate part of the credit. Each debt/credit is INDEPENDENT of each other.	Must be EXPRESSLY stated and not presumed.

(ii) When the law requires it		When the law requires solidarity: a) When two or more heirs take possession of the estate, they are solidarily liable for the loss or destruction of a thing devised or bequeathed. (Art. 927) b) Even when the agent has exceeded his authority, the principal is solidarily liable with the agent if the former allowed the latter to act as though he had full powers. (Art. 1911) c) When there are two or more bailees to whom a thing is loaned in the same contract, they are liable solidarily. (Art 1945) d) The responsibility of two or more payees, when there has been payment of what is, not due, is solidary. (Art. 2157) e) The responsibility of two or more persons who are liable for quasi-delict is solidary. (Art. 2194)
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(E) DIVISIBLE & INDIVISIBLE OBLIGATIONS

	DIVISIBLE	INDIVISIBLE
Definition	The prestation is capable of partial performance .	The prestation is NOT capable of partial performance . GR: Obligations are Indivisible
Obligations	Deemed Divisible: i. The object of the obligation is the execution of a certain number of days of work ii. When the object is the accomplishment of work by metrical units iii. When the purpose of the obligation is to pay a certain amount in installments iv. When the object of the obligation is the accomplishment of work susceptible of partial performance	Deemed Indivisible: i. Obligations to give definite things ii. Those not susceptible of partial performance iii. If capable of partial performance, but the law or the intention of the parties treats it as indivisible
Multiple Parties	The rules on Solidary & Joint Obligations are still observed	The rules on Solidary & Joint are still observed • The liability of multiple debtors remains to be joint – if ✓ there is no law or stipulation that requires solidarity ✓ the nature of the obligation does not require solidarity NOTE: • Indivisibility of an Obligation – does not imply solidarity. • Solidarity of an Obligation – does not imply indivisibility

(F) OBLIGATIONS WITH A PENAL CLAUSE

Penal Clause

- an accessory undertaking to assume greater liability in case of breach.

GR	The penalty shall substitute/in lieu of the indemnity for damages & payment of interests in case of non-compliance . <i>[Only 1 can be chosen between the fulfillment of the main obligation & the payment of penalty.]</i>
XPNS Even if there is NO non-compliance on the part of the debtor – he is liable for the MAIN OBLIGATION + PENALTY in the ff. cases:	a) If there is stipulation to the contrary b) If the debtor refuses to pay the penalty c) If the debtor is guilty of fraud in the fulfillment of the obligation

Proof of actual damages suffered by the Creditor:

- NOT NECESSARY – in order that the penalty may be demanded.

Nullity of the Penal Clause

- does not carry with it that of the principal obligation.

Nullity of the Obligation

- carries with it the nullity of the penal clause.

Payment of PENALTY instead of fulfillment of the obligation

	DEBTOR	CREDITOR
GR	Debtor cannot exempt himself from the performance of the obligation by paying the penalty.	Creditor cannot demand the fulfillment of the obligation AND the satisfaction of the penalty at the same time.
XPN	Where his right has been expressly reserved for him.	Such right has been clearly granted to him.

Penalty may be enforced:

- if after the creditor has decided to require the fulfillment of the obligation – the performance thereof should become impossible without his fault.

Reduction of Penalty: The courts can reduce the penalty whenever:

1. The principal obligation has been **partly or irregularly complied** with.
2. The penalty same is **iniquitous or unconscionable**.

EXTINGUISHMENT OF OBLIGATIONS

ARTICLE 1231

Obligations are extinguished:

- (1) By **payment or performance**
 - a) Special modes of payment:
 - i. Application of Payment
 - ii. Dacion en pago (Dation in payment)
 - iii. Cession en pago (Payment by cession)
 - iv. Tender of Payment and Consignation
- (2) By **loss of the thing due**
- (3) By the **condonation or remission** of the debt
- (4) By the **confusion or merger** of the rights of the creditor and debtor
- (5) By **compensation**
 - a) Legal Compensation
 - b) Conventional Compensation
 - c) Facultative Compensation
 - d) Judicial Compensation
- (6) By **novation**
 - a) Real Novation
 - b) Personal Novation
 - i. Substitution (Debtor)
 - a. Expromission
 - b. Delegacion
 - ii. Subrogation (Creditor)

The ff. are other causes of extinguishment of obligations governed elsewhere in this Code

- **Annulment** – for voidable contracts
- **Rescission** – for rescissible contracts
- **Fulfillment of a Resolutory Condition,**
- **Prescription** – mode of extinguishment of right to file an action/obligation by mere lapse of time fixed by law. It converts the enforceable civil obligation into an unenforceable natural obligation:
 - a) 6 years – quasi contract
 - b) 6 years – oral contract
 - c) 10 years – written contract
 - d) 10 years – court judgement
 - e) 4 years – quasi-delict
 - f) 1 year – libel or unlawful detainer or forcible entry

(1) PAYMENT OR PERFORMANCE

ARTICLE 1232

Payment means

- not only the **delivery of money**
- but also the **performance, in any other manner**, of an obligation.

Payment / Performance means:

- 1) If obligation is monetary, by delivery of the money in full
- 2) If obligation is a thing or an object, by delivery of the thing or object.
- 3) If obligation is to do something, by performance of the same undertaking.
- 4) If obligation is not doing a thing, to desist or refrain from doing the thing.

GR	A debt shall not be understood to have been paid.
XPNs	✓ Unless the thing or service in which the obligation consists have been completely delivered or rendered.

Performance

Substantial Performance	Incomplete Performance (Waiver)
If the obligation has been substantially performed in good faith The obligor may recover: = as though there had been a strict & complete fulfillment (-) damages suffered by the obligee	Obligation is deemed fulfilled when the obligee accepts the performance: ⊗ knowing its incompleteness or irregularity ⊗ without expressing any protest or objections

Requisites:

1. The payment must be **in accordance with the obligation**.
2. The person paying (debtor) & the one receiving payment (creditor) should have the **requisite capacity**.
3. The payment should be **made by the debtor to the creditor**.
4. The payment should be **made at the right time & place**.

Qualities for payment to be effective: ALL must be met

1. **Identity**
2. **Integrity**
3. **Indivisibility**

(1) Provisions as to the Payor

Generally:		
1. Debtor 2. Authorized Agent 3. Successor in interest	VALID PAYMENT	
3 RD Persons:		
1. Interested in the fulfillment of the obligation are those subsidiarily liable such as: (With Consent of the Debtor) - Guarantors - Co-debtors (inc. Joint Co-Debtors) - Mortgagors - Sureties - Preferred Creditors - Owners of Securities	✓ VALID PAYMENT - Creditor – can be compelled to accept payment - Debtor – shall fully reimburse 3rd person - Reimbursement – Full Reimbursement (if without consent of the debtor: only Beneficial Reimbursement) 3 rd person – subrogated to the rights of creditor	
2. Not interested in the fulfillment of the obligation (Art. 1236)	Creditor is NOT BOUND to accept payment or performance <i>Unless: there is a stipulation to the contrary</i> If debtor CONSENT to payment: - Debtor – shall FULLY reimburse 3rd person 3rd person – subrogated to the rights of the creditor If debtor does NOT consent to the payment (without the knowledge or against the will of the debtor) - Debtor – shall reimburse 3rd person for what has been beneficial to him (Beneficial Reimbursement) 3rd person – NOT subrogated to the rights of the creditor	
3. Does not intend to be reimbursed (Art. 1238)	Creditor – can refuse payment If debtor CONSENT to payment: ✓ deemed a donation ✓ It is necessary that the debtor accept the same for validity If debtor does NOT consent to payment: ⊗ debtor – only Beneficial Reimbursement will be given to the 3rd party ⊗ 3rd person – not subrogated to the rights of creditor	

(2) Provisions as to the Payee**Payment may be made to:**

1. **Person in whose favor** the obligation has been constituted
☞ not necessarily a party to the constitution of the obligation
2. **His successor in interest**
☞ who may not be the creditors at the time of constitutions but may be creditors at the time of fulfillment.
3. **Any person authorized to receive it**
☞ Agents are creditors because they have the right to collect – but not in their own right.
4. **Third party**
☞ if it rebounds to the benefit of the creditor (**benefit must be proven**)

Payment to a third person

- ☞ **GR: NOT VALID,**
- ☞ **XPNS:**
 - ✓ When the third person is **authorized to receive it.**
 - ✓ When the payment to the third person has **redounded to the benefit of the creditor.**
 - ✓ When the third person is in **possession of the credit & payment was made in good faith.**

Legal Tender

- payment of debts in money shall be made in the currency stipulated.
- if it is not possible, then in the currency which is legal tender in the PH.
- **Legal Tender in Philippines** – the currency which the creditor cannot refuse to accept as payment.
- Under the New Central Bank Act:
 - ✓ **Coins & currencies issued by the BSP** – have legal tender power
 - ✓ **Currency notes** – no limit as to the amount it can be used as legal tender
 - ✓ **Coins** – subject to the ff. limits:

P1 & above coins	legal tender in amount NOT EXCEEDING P1,000
Coins below P1	legal tender in amount NOT EXCEEDING P100
Bills	UNLIMITED legal tender power.

Negotiable Instruments & Checks

- **NOT CONSIDERED legal tender.**
- their **acceptance is dependent on the creditor.**

GR	If the Negotiable Instrument/Check is accepted by the creditor ⊗ they DO NOT produce the effect of payment or extinguishment of obligation
Until:	Acceptance of the check is equivalent to payment: a) When the creditor is in estopped or the creditor had previously promised accept the check b) At the time the check or other mercantile documents have been encashed c) Its value becomes impaired – through the fault of the creditor.

(4) Place of Payment

(a) Generally	In the place designated in the obligation	
(b) No Stipulation	Determinate thing Wherever the thing might be at PERFECTION.	Generic thing & To do Domicile of the debtor

(5) Special Forms of Payment

- a) **Dation in Payment (Dacion en pago)**
- b) **Application of Payments**
- c) **Payment by Cession or Assignment (Cession en pago)**
- d) **Tender of Payment & Consignation**

a) Dation in Payment (Dacion en pago)

Dation in Payment (Asset Swap in Financial Accounting)

- a **property is alienated to the creditor in satisfaction of a debt in money.**
- *the obligation is money & the payment is property.*
- may consist of the following:
 - **thing**
 - **rights** (i.e., usufruct or credit)
- governed by the **Law on Sales** – since the undertaking partakes in one sense of the nature of sale
 - o the creditor is buying the thing/property of the debtor
 - o the payment for which is to be charged against the debtor's debt
 - o the essential elements of a contract of sale must be present:
 - ✓ **Consent**
 - ✓ **Object**
 - ✓ **Cause**
- other terms:
 - datio in solutum
 - adjudicacion en pago
 - payment in kind

b) Application of Payments

Application of Payment

- the **designation of the debt** which is being paid by a debtor who has **several obligations** of the **same kind** in favor of the creditor to whom payment is made.
- *purpose: to know which debt out of two or more debts should be extinguished.*

Requisites:

1. **one (1) debtor & one (1) creditor**
2. **two (2) or more debts**

3. debts must be of the **same kind**
4. debts to which the payment made by the debtor has been applied must be **due**
5. **payment made must not be sufficient to cover all the debts.**

Other Cases:

If DEBTOR did not designate – to which debt shall payment apply	That which chosen by the Creditor : ✓ as reflected in the receipt ✓ accepted by the debtor without protest
If DEBTOR & CREDITOR did not designate	By operation of law a) If the debts are of Different nature & burden – most onerous to the Debtor b) If the debts are of the same nature & burden – applied proportionately
Obligation producing interest , when the amount being paid is not sufficient to cover principal and interest	1) Apply first to interest 2) Excess – to the principal

c) Payment by Cession or Assignment (Cession en pago)

Payment by Cession (akin to Corporate Liquidation in Financial Accounting) – INSOLVENT: All properties covered

- a **debtor transfers all his properties** in favor of his creditors so that the latter may
 - ✓ **sell** them and
 - ✓ **apply the proceeds** to their credits

Dacion in Payment vs. Cession or Assignment

	Dacion in payment	Cession or Assignment
Extinguishment of the obligation	May be totally extinguished if: ✓ agreed upon ✓ by silence ✓ consider the thing equivalent to the obligation <i>*regardless of deficiency in proceeds</i>	GR: Extinguished only insofar as the net proceeds XPN: Otherwise stipulated <i>*debtor may still have deficiency</i>

How proceeds are distributed to the creditors:

- a. Stipulation
- b. Preference of Creditors

d) Tender of Payment & Consignation

Tender of Payment

- the **manifestation made by the debtor to the creditor of his desire to comply** with his obligation – with the **offer of immediate performance**.
- *debtor attempted to pay but creditor did not receive it.*
- a **Preparatory Act** to consignation.
 - ⊗ in itself **does not extinguish the obligation**.

Consignation

- **deposit of the things due** at the **judicial authority**.

Requisites:

1. **Valid debt** that is **due**
2. **Tender of payment by the debtor** and **refusal without justifiable reason by the creditor to accept it**.
3. **previous (1st) notice to consign** to the persons having interest in the fulfillment of the obligation
4. The amount or thing due is **deposited in court**
5. **2nd notice to the creditor of actual consignation to the court**

(3) Condonation / Remission of the Debt

Condonation/Remission

- an **act of liberality**.
- without receiving any equivalent, the creditor **renounces** the enforcement of an obligation.
- **gratuitous** & **requires acceptance** by the debtor.

Accessory Obligations

- the renunciation of the principal debt: shall extinguish the accessory obligations.
- the renunciation of the accessory obligation: shall not extinguish the principal debt.
- *accessory obligations follow through the principal obligation – but not the other way around.*

(4) Confusion / Merger

Merger / Confusion

- the obligation is extinguished from the time **the characters of creditor & debtor are merged in the same person**.

Requisites:

1. It must take place between the **principal creditor & principal debtor**.
2. The **very same obligation must be involved**.
3. The confusion or merger **must be total** or **the entire obligation**.

Guarantors

- merger which takes place in the person of the principal debtor or creditor benefits the guarantors.
- **confusion which takes place in the person of the guarantors – does not extinguish the obligation**
- Example: If the debt is assigned by the creditor to the guarantor, and the latter becomes the creditor of such obligation:
 - ⊗ There is no extinguishment – *because he is NOT the principal debtor of the obligation.*
 - ⊗ Therefore, the debtor is now liable to pay the guarantor since the obligation is not extinguished.

(5) Compensation**Compensation**

- a mode of extinguishment to the concurrent amount, the obligation of those persons who in their own right, **are reciprocally creditors & debtors of each other.**

Requisites:

1. *Parties must be mutual principal debtors & creditors in their own right*
2. *Both debts must be due.*
3. *Both debts must be liquidated & demandable.*
4. *Debts must pertain to sum of money or if consumables, they must be of the same kind & quality.*
5. *The claim must be clearly demandable – no controversy as to the claim.*

Kinds of Compensation

As to Origin / Cause	
Legal	⊗ takes place by operation of law (automatic) – ALL requisites provided by law must be present. ⊗ extinguished both debts to the concurrent amount ⊗ even though the creditors & debtors are not aware of the compensation.
Facultative	⊗ can be claimed by one of the parties who has the right to object to it: → depositary → bailee → the one entitled to the support → the offended party in a criminal case ⊗ such as when one of the obligations has a period for the benefit of one party alone & who renounces that period so as to make the obligation due.
Conventional	⊗ when the parties agree (by contract) to compensate their mutual obligations – even if some of the requisites are lacking.
Judicial	⊗ decreed by the court in a case where there is a counterclaim.

(6) Novation

Novation

- the total or partial extinguishment of an obligation through the **creation of a new one which substitutes it**.
- obligation may be modified by:
 - **Real Novation**: changing its object or principal conditions
 - **Personal Novation**: substituting another in place of the debtor
 - **Subrogation**: subrogating a third person in the rights of the creditor

Requisites:

1. **Previous valid obligation.**
2. **Agreement of all parties to a new contract.**
3. **Extinguishment of old obligation.**
4. **Validity of the new obligation.**

Subrogation

- the **transfer to a third person** of all the rights appertaining to the creditor, including the right to proceed against the guarantor, possessors of mortgages, subject to any legal provision or any modification that maybe agreed upon.

(a) Subjective Novation: Changing the subject or parties

(i) Active (Subrogation)	
if a third person is <i>subrogated</i> to the rights of the creditor	
a) By agreement or express (Conventional)	⊗ requires the consent of ALL PARTIES : → original parties and → the third person to be subrogated
b) By law (not presumed) or implied (presumed)	⊗ Art. 1302: it is presumed that there is legal subrogation: (you don't need to prove anything) When a creditor pays another creditor who is preferred – even without the debtor's knowledge When a third person not interested in the obligation – pays with the express or tacit approval of the debtor When even without the knowledge of the debtor a person interested in the fulfillment of the obligation pays – without prejudice to the effects of confusion as to the latter's share.

(ii) Passive (Substitution)

If a third person is **substituted** to the person of the debtor – it should be clear to both parties that the new **debtor** is in lieu of the debtor.

Kinds of Passive Novation	Extent of Reimbursement	Liability of Old Debtor in case of INSOLVENCY of NEW DEBTOR
Expromission - not the debtor's idea without the knowledge or against the debtor's will.	Beneficial Reimbursement	Old debtor is no longer liable. <i>(since it was not his idea or he is not the one who proposed it)</i>
Delegacion - new debtor is proposed by old debtor or - substitution is with consent of the original debtor <u>Parties:</u> → Delegante – the old debtor → Delegado – the new debtor → Delegatario – the creditor	Full	GR: The insolvency of the new debtor shall not revive the action of the latter against the original debtor. XPN: Old debtor may still be liable <i>(since he is the one who proposed it)</i> if the insolvency of the NEW debtor and either of: → was already existing → and either of: → public knowledge → known to the debtor when he delegated

Other Kinds of Damages

Art. 2216. No proof of pecuniary loss is necessary in order that moral, nominal, temperate, liquidated or exemplary damages, may be adjudicated. The assessment of such damages, except liquidated ones, is left to the discretion of the court, according to the circumstances of each case.

Moral Damages	Nominal Damages	Temperate or Moderate Damages	Liquidated Damages	Exemplary or Corrective Damages
Art. 2217 damages awarded by reason of: → physical suffering, s → mental anguish, → fright, → serious anxiety, → besmirched reputation, → wounded feelings, → moral shock, → social humiliation, and → similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act for omission.	Art. 2221 are adjudicated in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered by him.	Art. 2224 – are more than nominal but less than compensatory damages, – may be recovered when the court finds that some pecuniary loss has been suffered but its amount cannot be provided with certainty, from the nature of the case.	Art. 2226 are those agreed upon by the parties to a contract, to be paid in case of breach thereof. same as penalty clause	Art. 2229 are imposed, by way of example or correction for the public good, in addition to the moral, temperate, liquidated or compensatory damages.
Art. 2218 In the adjudication of moral damages, the sentimental value of property, real or personal, may be considered.	Art. 2222 The court may award nominal damages in every obligation arising from any source enumerated in Article 1157, or in every case where any property right has been invaded.	Art. 2225 Temperate damages must be reasonable under the circumstances.	Art. 2227 Liquidated damages, whether intended as an indemnity or a penalty, shall be equitably reduced if they are iniquitous or unconscionable.	Art. 2230 In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.