

## French Civil Code

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

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

#### **TITLE II.**

##### *Of the Distinction of Property.*

Decreed the 27th of January, 1804. Promulgated the 6th of February.

544. Property is the right of enjoying and disposing of things in the most absolute manner, provided they are not used in a way prohibited by the laws or statutes.
545. No one can be compelled to give up his property, except for the public good, and for a just and previous indemnity.
546. Property in a thing, whether real or personal, confers a right over all which it produces, and over all connected with it by accession, whether naturally or artificially.
- This right is termed the "*right of accession.*"

#### **CHAPTER I.**

##### *Of the Right of Accession over the Produce of any Thing.*

547. The natural or artificial fruits of the earth.  
Civil advantages.  
The increase of animals, belong to the proprietor by right of accession.
548. The fruits produced by any thing only belong to the proprietor on condition of reimbursing the expenses of labor, tillage, and seed, incurred by third persons.
549. A party simply in possession is only entitled to the fruits where he is so by good faith: in the opposite case he is bound to render the produce with the thing itself to the proprietor who claims it.
550. He is in possession by good faith who possesses, as proprietor, by virtue of a conveyance of the defects of which he is not aware.  
He ceases to be in possession by good faith from the moment wherein he discovers such defects.

#### **CHAPTER II.**

##### *Of the Right of Accession over what is connected and incorporated with any Thing.*

551. Every thing which is connected and incorporated with any thing belongs to the proprietor, according to rules which shall be hereafter established.

#### **SECTION I.**

##### *Of the Right of Accession relatively to Things immoveable.*

552. Property in the soil imports property above and beneath.  
The proprietor may make above all kinds of plantations and buildings which he shall judge convenient, saving the exceptions established under the title "*Of Servitudes and Services relating to Land.*"  
He may make beneath all buildings and excavations which he shall judge convenient,

and draw from such excavations all the products which they are capable of furnishing, saving the restrictions resulting from the laws and statutes relating to mines, and from the laws and regulation of police.

553. All buildings, plantations, and works upon the soil or beneath the surface, are presumed to have been made by the proprietor at his own expense, and to belong to him, until the contrary be shown; without prejudice to the property which a third person may have acquired or may acquire by prescription, whether it be a vault beneath the building of another, or any other part of the building.
554. The proprietor of the soil having made buildings, plantations, and works with materials which did not belong to him, must pay the value thereof; he may also be condemned in damages, and interest if there be ground; but the owner of such materials is not allowed to remove them.
555. When plantations, buildings, and works have been made by a third person and with his own materials, the proprietor of the soil has a right either to retain them, or to oblige such third person to remove them.  
If the proprietor of the soil demand the demolition of the plantations and buildings, it must be done at his charge who made them and without any indemnity; he may moreover be condemned in damages and interest, if there be ground, for the injury which may have been sustained by the proprietor of the soil.  
If the proprietor prefer preserving such plantations and buildings, he owes a reimbursement for the value of the materials and the price of the work, without regard to the greater or less augmentation of value which the soil has received. Nevertheless if the plantations, buildings, and works have been made by a third person evicted but not condemned to a restitution of profits on account of his good faith, the proprietor shall not demand the demolition of the said works, plantations, and buildings: but he shall have his election, either to repay the value of the materials and the price of workmanship, or to reimburse a sum equal to the augmented value of the estate.
556. The accumulations and increase of mud formed successively and imperceptibly on the soil bordering on a river or other stream, is denominated "*alluvion*."  
Alluvion is for the benefit of the proprietor of the shore, whether in respect of a river, a navigable stream, or one admitting floats, or not; on condition, in the first case, of leaving a landing-place or towing-path conformably to regulations.
557. It is the same with regard to derelictions occasioned by a running stream retiring insensibly from one of its banks, and encroaching on the other; the proprietor of the bank discovered profits by the alluvion, without giving the proprietor on the opposite side a right to reclaim the land which he has lost.  
This right does not take place with regard to derelictions of the sea.
558. Alluvion does not take place with respect to lakes and ponds, the proprietor of which preserves always the land which the water covers when it is at the pond's full height, even though the volume of water should be diminished.  
In like manner the proprietor of a pond acquires no right over land bordering on his pond which may happen to be covered by an extraordinary flood.
559. If a river or a stream, navigable or not, carries away by a sudden violence a considerable and distinguishable part of a field on its banks, and bears it to a field lower, or on its opposite bank, the owner of the part carried away may reclaim his property; but he is required to make his demand within a year: after this interval it is inadmissible, unless the proprietor of the field to which the part carried away has been united, has not yet taken possession thereof.
560. Islands, islets, and accumulations of mud formed in the bed of rivers or streams

navigable, or admitting floats, belong to the nation, if there be no title or prescription to the contrary.

561. Islands and accumulations of mud formed in rivers and streams not navigable, and not admitting floats, belong to the proprietors of the shore on that side where the island is formed; if the island be not formed on one side only, it belongs to the proprietors of the shore on the two sides, divided by an imaginary line drawn through the middle of the river.

562. If a river or other stream in forming itself a new arm, divide and surround a field belonging to the proprietor of the shore, and thereby form an island, such proprietor shall retain the ownership of his land, although the island be formed in a river or in a navigable stream or one admitting floats.

563. If a river or a navigable stream, capable of admitting floats or not, form a new course, abandoning its ancient bed, the proprietors of the land newly occupied take, by title of indemnity, the ancient bed abandoned, each in proportion to the land of which he has been deprived.

564. Pigeons, rabbits, and fish passing to another dove-house, warren, or pond, belong to the proprietors of the latter, provided they have not been attracted by fraud and artifice.

## **SECTION II.**

### ***Of the Right of Accession relatively to moveable Property.***

565. The right of accession having for its object two things moveable which belong to different masters, is entirely subordinate to the principles of natural equity.

The following rules shall serve as examples to guide the judge in determining, in cases not provided for, according to the peculiar circumstances.

566. When two objects appertaining to different masters, which have been united in such a manner as to form one whole, are nevertheless separable, so that one can subsist without the other, the whole belongs to the master of that which forms the principal part, on condition of paying to the other the value of the one which was united to it.

567. That is to be deemed the principal part to which the other was only united for the use, ornament, or completion of the first.

568. Nevertheless, when the object united is much more valuable than the principal one, and when it has been employed unknown to the proprietor, the latter may demand that the object united shall be separated in order to be restored to him, even though it may be attended with some deterioration of that to which it was joined.

569. If of two objects united in order to form one whole, the one cannot be regarded as accessory to the other, that shall be deemed the principal which is most considerable in value, or in size, if the value of both is nearly equal.

570. If an artisan or any person whatsoever has employed a material which did not belong to him, in order to form something of a new description, whether the material can or cannot be restored to its original shape, the proprietor thereof has a right to claim the thing which has been formed from it, on paying the price of the workmanship.

571. If however the workmanship were so important, that it surpassed by much, the value of the material employed, the labor shall then be deemed the principal part, and the artificer shall have a right to retain the thing wrought, on paying the price of the material to the proprietor.

572. Where a person has made use of materials which partly belong to him and in part do

not, in order to form an object of a new description, without having destroyed any of the materials, but in such a way that they cannot be separated without inconvenience, the object is common to both proprietors; by reason as respects the one of the materials belonging to him, and in regard to the other by reason at once of the material belonging to him, and the price of his workmanship.

573. When an object has been formed by the mixture of many materials belonging to different proprietors, but of which no one can be regarded as the principal material: if such materials are capable of being separated, he without whose knowledge such materials were mingled, may demand the division thereof.  
If the materials are incapable of separation without inconvenience, they acquire therein a common property proportioned to the quantity, quality, and value of the material belonging to each of them.
574. If the material belonging to one of the proprietors were far superior in quantity or value to the other, in such case the proprietor of the material superior in value may claim the thing produced by the mixture, on paying to the other the price of his material.
575. When an object remains in common between the proprietors of the materials of which it has been formed, it ought to be sold by auction for their mutual advantage.
576. In all cases where a proprietor, whose material has been made use of, without his knowledge, in order to form an object of a different description, can claim a property in such object, he has the election of demanding restitution of his material, in kind, in the same quantity, weight, measure, and goodness, or its value.
577. Persons who shall have employed materials belonging to others and without their knowledge, may also be condemned in damages and costs if there be ground, without prejudice to prosecution in an extraordinary manner if there be occasion.