

French Civil Code

BOOK III. Of The Different Modes Of Acquiring Property.

TITLE XVI.

OF PERSONAL ARREST IN A CIVIL MATTER.

Decreed 13th of February 1804. Promulgated the 23d of the same Month.

2059. Personal arrest takes place, in a civil matter, for *stellionate*.

Stellionate is,

Where a person sells or mortgages an immoveable, of which he knows himself not to be the owner;

Where a party offers as unencumbered, property mortgaged, or where he declares the mortgages as less than those with which such properties are actually charged.

2060. Personal arrest takes place in like manner—

1st. For necessary deposit;

2d. In case of restitution, for abandonment of inheritance, ordered by the court, of an estate whereof the proprietor has been despoiled by force, for the recovery of the profits which have been received during the unlawful possession, and for the payment of damages adjudged to the proprietor;

3d. For the recovery of money entrusted to the hands of public persons appointed for that purpose;

4th. For the production of things deposited with sequestrators, commissaries, and other bailees;

5th. Against judicial sureties and against the sureties of persons liable to arrest, when they have been subjected to such arrest;

6th. Against all public officers for the production of their minutes, when it has been ordered;

7th. Against notaries, attornies, and officers, for the restoration of documents entrusted to them, and of money received by them for their clients, in the course of their duties.

2061. Those who by a judgment given on petition, and passed with the authority of a matter decided, have been sentenced to quit an estate, and who refuse to obey, may by a second judgment be personally arrested, fifteen days after notice of the first judgment personally given or at the party's domicile.

If the estate or the inheritance be distant more than five myriameters from the domicile of the party sentenced, there shall be added to the fifteen days one day for five myriameters.

2062. Personal arrest cannot be directed against farmers for the arrears of the rent of rural property, if it have not been formally stipulated in the act of lease. Nevertheless, farmers and under-tenants may be personally arrested, on failure by them to produce, at the end of the lease, the beasts in *cheptel*, seeds, and agricultural instruments, which were entrusted to them, unless they can prove that the deficiency in such articles does not proceed from their act.

2063. With the exception of the cases determined by the preceding articles, or which may be so hereafter by a formal law, it is forbidden to all judges to pronounce personal arrest, to all notaries and registrars to take acts in which it shall be stipulated, and to all Frenchmen to consent to such acts, although they should have been passed in a foreign country; the whole on pain of nullity, costs, and damages.

2064. Even in the cases above set forth, personal arrest cannot be pronounced against minors.
2065. It cannot be pronounced for a sum less than three hundred francs.
2066. It cannot be pronounced against persons of seventy years of age, against women and girls, except in case of *stellionate*.
It is sufficient that the seventieth year have begun in order to enjoy the indulgence granted to persons of seventy years.
Personal arrest on account of *stellionate* during marriage, does not take place except against women who have separate property, or when they have property of which they have reserved the free administration, and by reason of engagements which relate to such property.
Women, who having community shall have contracted obligations jointly and severally with their husbands, shall not on account of such contracts be reputed guilty of *stellionate*.
2067. Personal arrest, even in cases authorized by law, cannot be put in force except by virtue of a judgment.
2068. Appeal does not suspend the arrest pronounced by a judgment provisionally executory on giving security.
2069. Exercise of personal arrest does not prevent or suspend prosecutions and executions against the goods.
2070. No infringement is made of the particular laws which authorize personal arrest in matters of commerce, nor of the laws of correctional police, nor of those which relate to the administration of the public money.