

French Civil Code

BOOK III. Of The Different Modes Of Acquiring Property.

TITLE XX.

OF PRESCRIPTION.

Decreed the 15th of March, 1804. Promulgated the 25th of the same month.

CHAPTER I.

General Ordinances.

2219. Prescription is a means of acquisition or of exoneration by a certain lapse of time, and subject to conditions determined by the law.
2220. Prescription cannot be renounced by anticipation; prescription acquired may be renounced.
2221. Renunciation of prescription is express or tacit: tacit renunciation results from an act which presumes abandonment of a right acquired.
2222. He who is incapable of alienating, cannot renounce prescription acquired.
2223. Judges cannot supply officially the argument resulting from prescription.
2224. Prescription may be objected in every stage of the cause, even before the court of appeal, unless the party who shall not have urged the objection of prescription can, from circumstances, be presumed to have renounced it.
2225. Creditors or any other person having an interest in establishing prescription, may object it, although the debtor or the proprietor renounce it.
2226. Prescription cannot be set up against the property in things which are not the objects of commerce.
2227. The nation, public establishments, and communes, are subjected to prescription equally with private persons, and may plead it in like manner.

CHAPTER II.

Of Possession.

2228. Possession is the retention or enjoyment of a thing or a right which we hold or which we exercise by ourselves, or by another who holds it or who exercises it in our name.
2229. In order to be able to prescribe, there is required possession continual and uninterrupted, peaceable, public, unequivocal, and under the title of proprietor.
2230. A party is always presumed to possess for himself, and under the title of proprietor, unless it be proved that he commenced his possession for another.
2231. Where a person has commenced his possession in right of others, he is always presumed to possess by the same title, if there be no contrary proof.
2232. Acts of pure license and simple toleration can lay no foundation either for possession or prescription.

2233. Acts of violence can lay no better ground for a possession capable of operating prescription.
Useful possession does not commence until violence has ceased.
2234. The actual possessor who proves his possession at an antecedent period, is presumed to have possessed in the intermediate time; saving proof to the contrary.
2235. In order to complete prescription, the party may join to his own possession that of his predecessor, in whatsoever manner he may have succeeded to him, whether by universal or particular title, or by lucrative or chargeable title.

CHAPTER III.

Of the Causes which prevent Prescription.

2236. They who possess in right of others can never prescribe by any lapse of time whatsoever.
Thus the farmer, the depositary, the usufructuary, and all others who hold by precarious title the property of the proprietor, are incapable of prescribing for it.
2237. The heirs of those who held the thing by any one of the titles designated in the preceding article, are also incapable of prescribing.
2238. Nevertheless, the persons enumerated in articles 2236 and 2237 may prescribe, if the title of their possession be overthrown, either by a cause proceeding from a third person, or by the opposition which they may have made to the claim of the proprietor.
2239. Those to whom farmers, depositaries, and other precarious holders, have transmitted the thing by a title conveying ownership may prescribe.
2240. A man cannot prescribe against his own title, in this sense that he cannot change upon himself the cause and principal of his possession.
2241. A man may prescribe against his own title, in this sense that he may prescribe for exoneration from an obligation which he has contracted.

CHAPTER IV.

Of the Causes which interrupt, or which suspend the Course of Prescription.

SECTION I.

Of the Causes which interrupt Prescription.

2242. Prescription may be interrupted either naturally or civilly.
2243. There is a natural interruption, when the possessor is deprived, during more than a year, of the enjoyment of the thing, whether by the ancient proprietors or even by a third person.
2244. A citation in court, a peremptory demand, or a seizure notified to the party whom it is desired to impede in prescription, form a civil interruption.
2245. A summons for reconciliation before the office of the peace, interrupts prescription from the day of its date, when it is followed by a citation from the court given within legal intervals.
2246. Citation in court given, even before an unauthorized judge, interrupts prescription.
2247. If the summons be null for defect in form;
If the plaintiff discontinue his demand;
If he fail to prosecute his suit;

Or if his petition be rejected,
The interruption is considered as not having occurred.

2248. Prescription is interrupted by the acknowledgment which the debtor or the possessor makes of the right of the party against whom he was prescribing.

2249. A demand made, conformably to the article. above, to one of the joint and several debtors, or his acknowledgment, interrupts prescription against all the rest, and even against their heirs.

A demand made on one of the heirs of a joint and several debtor, or the acknowledgment of such heir, does not interrupt prescription with regard to the other coheirs, even though the debt should be a mortgage one, if the obligation is indivisible. Such demand or such acknowledgment does no interrupt prescription, with regard to the other joint debtors, except for that portion in which such heir is bound. In order to interrupt prescription entirely, with regard to the other joint-debtors, there must be a demand made to all the heirs of the deceased debtor, or an acknowledgment by the whole of such heirs.

2250. Demand made upon the principal debtor, or his acknowledgment, interrupts prescription against the security.

SECTION II.

Of the Causes which suspend the Course of Prescription.

2251. Prescription runs against all persons, unless they are within some exception established by a law.

2252. Prescription does not run against minors and interdicted persons, saving what is said in article 2278, and with the exception of the other cases determined by the law.

2253. It does not run between married persons.

2254. Prescription runs against a married woman, although she be not separated by the contract of marriage, or by the law, with regard to property of which her husband has the administration, saving her remedy against her husband.

2255. Nevertheless, it does not run, during marriage, with regard to the alienation of an estate settled according to the regulations of dower, conformably to article 1561, under the title "Of the Contract of Marriage, and of the respective Rights of Married Persons."

2256. Prescription is in like manner suspended during marriage,

1st. In the case where the action of the wife cannot be brought until after an election to be made touching the acceptance or renunciation of community;

2d. In the case in which the husband, having sold property belonging to the wife without her consent, is guarantee for the sale, and in all other cases in which the action by the wife shall lie against the husband.

2257. Prescription does not run,

With regard to a debt which depends on a contingency, until such contingency occur;

With regard to an action for warranty, until eviction have taken place;

With regard to a debt at a fixed day, until such day have arrived.

2258. Prescription does not run against the beneficiary heir, with regard to demands which he has against the succession.

It runs against a vacant succession, although not provided with a curator.

2259. It runs also during the three months for making inventory, and the forty days for deliberation.

CHAPTER V.

Of the Time required in order to prescribe.

SECTION I.

General Ordinances.

2260. Prescription is computed by days, and not by hours. It is acquired when the last day of the term is accomplished.
2261. In prescriptions which are accomplished within a certain number of days, the supplementary days are reckoned.
In those which are accomplished by months that of Fructidor comprehends the supplementary days.

SECTION II.

Of a thirty Years' Prescription.

2262. All actions, as well real as personal, are prescribed by thirty years, without compelling the party who alleges it to produce a document thereon, or without permitting an objection to be opposed to him derived from bad faith.
2263. After twenty-eight years from the date of the last title, the grantor of an annuity may be compelled to furnish at his own charge a new title to his creditor or to his assigns.
2264. The rules of prescription on other subjects than those mentioned in the present title, are explained in the titles peculiar to them.

SECTION III.

Of Prescription by ten and twenty Years.

2265. The party who acquires an immoveable bona fide, and by just title, prescribes for property therein in ten year., if the true proprietor lives within the jurisdiction of the court of appeal within the compass of which the immoveable is situated; and in twenty years, if he is domiciled beyond the said jurisdiction.
2266. If the real proprietor have had his domicil at different times, within and without the jurisdiction, it is necessary, in order to complete prescription, to add to the deficiency from ten years of presence therein, a number of years of absence therefrom double of such deficiency, in order to complete the ten years of presence.
2267. A title void by defect in form cannot serve as the bails of prescription by ten and twenty years.
2268. Good faith is always presumed, and it lies with the party who alleges bad faith to prove it.
2269. It suffice that good faith existed at the moment of acquisition.
2270. After ten years, architects and contractors are discharged from the warranty of workmanship performed or directed by them by estimate.

SECTION IV.

Of some particular Prescription.

2271. The actions of masters and instructors in sciences and arts, which they give by the month;
That by keepers of inns and taverns, on account of lodging and board which they supply;

That by artisans and work-people, for the payment of their daily labor, provisions, and salaries,
Are prescribed in six months.

2272. The action by physicians, surgeons, and apothecaries for their visits, operations, and medicine;

That by officers of the court, for compensation for acts notified by them, and for commissions which they execute;

That by merchants, for commodities sold by them to private persons not merchants;

That by keepers of boarding-houses, for the price of the board of their pupils; and by other masters for the price of apprenticeship;

That by servants who are hired by the year for the payment of their wages,

Are prescribed after a year.

2273. The action by attornies for the payment of their costs and charges, is prescribed after two years, computing from the judgement on the process, or from the settlement by the parties, or from the revocation of the said attornies. With regard to affairs not terminated, they cannot make demands for their costs and charges which shall extend more than five years backward.

2274. Prescription takes place, in the cases above, although there has been a continuation of supplies, deliveries of goods, services, and works.

It only ceases to run when there has been an account balanced, a schedule or obligation, and a legal citation not annulled.

2275. Nevertheless, those to whom such prescriptions are objected, may tender an oath to the parties objecting them, for the purpose of ascertaining this question whether payment has really been made.

The oath may be tendered to widows and heirs, or to the guardians of the latter, if they be minors, in order that they may declare whether they know the demand to be just.

2276. Judges and attornies are discharged as to documents five years after judgment on the proceedings.

Officers of the court, after two years from the execution of the commission, or from the notification of the acts with which they were intrusted, are in like manner discharged therefrom.

2277. The arrears of perpetual and life annuities;

Those of alimentary pensions;

The rents of houses, and the price of a lease of rural property;

Interest on sums lent, and generally every thing which is payable by the year, or at shorter periodical intervals;

Are prescribed after five years.

2278. Prescriptions which form the subject of the articles of the present section run against minors and interdicted persons, saving their remedy against their guardians.

2279. In the case of moveables, possession is equivalent to a title.

Nevertheless, the party who has lost any thing, or from whom it has been stolen, may reclaim it within three years computing from the day of the loss or robbery, against the party in whose hands he finds it; saving to the latter his remedy against the person from whom he obtained it.

2280. If the actual possessor of the thing stolen, or lost, has purchased it in a fair, or in a market, or at a public sale, or from a merchant who sells similar article, the original proprietor can only procure it to be restored to him on repaying to the possessor the price which it cost him.

2281. Prescriptions commenced at the period of the publication of the present title shall be regulated conformably to the ancient laws.

Nevertheless, prescriptions at that time commenced, and for which there was still requisite, according to the ancient laws, more than thirty years computing from the same date, shall be accomplished by such lapse of thirty years.

(Signed) BONAPARTE, First Consul.

(Countersigned) The Secretary of State, HUGHES B. MARET,
and sealed with the Seal of State.

Seen, the Chief Judge, Minister of Justice,
(Signed) REGNIER.

Certified, the Grand Judge, Minister of Justice, REGNIER.

THE END.