

TITLE I
MARRIAGE
CHAPTER I
BETROTHAL

Section 1435. A betrothal can be effected only when the man and the women have completed there seventeenth year of age.

The betrothal contrary to the provision of paragraph one is void.

Section 1436. If a minor will conclude a betrothal, the consent of the following persons is required:

- (1) his or her parents, in case booth of his her father and mother are still alive;
his or her parent, in case his or her father or mother died, or is in condition of state of being
- (2) unable to give consent, or is under the circumstances that make the minor unable to ask for such consent;
- (3) his or her adopter, in case the minor is and adopted child
- (4) his or her guardian, in case there is no person giving consent under (1), (2) and (3), or such person is deprived of parental power.

A betrothal concluded by the minor without the said consent is voidable.

Section 1437. Betrothal is not valid until the man gives or transfers the property which is **Khongman** to the woman as evidence that the woman after the betrothal has taken place.

The **Khongman** shall become the property of the woman after the betrothal has taken place.

Sinsod is property given on the part of the man to the parents, adopter of guardian of the woman, as the case may be, in return of the woman agreeing to marry. If the marriage doe not take place causing mainly from the woman or on account of any circumstances that make the woman responsible therefore and make the marriage unsuitable for the man or make the man unable to marry that woman, the man may claim the return of the **Sinsod**.

The provisions of [Section 412](#) to Section 418 of this Code on undue enrichment shall apply to the return of the **Khongman** or **Sinsod** under this Chapter, *mutatis mutandis*.

Section 1438 Betrothal does not give rise to an action for compulsory performance of the marriage. An agreement to pay a penalty in case of breach of the betrothal agreement is void.

Section 1439. After the betrothal has taken place if either party commits a breach of the betrothal agreement, such party shall be liable to make compensation. In case the woman commits a breach of the betrothal agreement, the **Khongman** shall also be returned to the man.

Section 1440. Compensation may be claimed as follows:

- (1) for injury caused to the body or reputation of the man or woman;
- (2) for appropriate expenses or debt incurred in good faith by the betrothed , his or her parents or a person acting in the capacity of his or her parents in preparation for the marriage;
for damage suffered by the man or woman through having take appropriate measures affecting
- (3) his or her property or other affairs relating to his or her occupation or earning in expectation of the marriage.

In case where the woman is entitled to the compensation, the Court may decide that the **Khongman** which has become her property is the whole or a part of compensation she will receive, or the Court may order for payment of the compensation without regard to **Khongman** that has become property of the woman.

Section 1441. Where one of the betrothal dies before the marriage, there shall be no claim for compensation. As for the **Khongman** or **Sinsod**, it need not be returned by the woman or on the

part of the woman, irrespective if the death of either party.

Section 1442. In case where there is an essential event happening to the betrothed woman that make the marriage to the woman unsuitable, the man is entitled to renounce the betrothal agreement and the woman shall return the **Khongman** to the man.

Section 1443. In case where there is an essential event happening to the betrothed man that makes marriage to the man unsuitable, the woman is entitled to renounce the betrothal agreement and the **Khongman** need not to be returned to the man.

Section 1444. If the ground that makes the one betrothed renounce the betrothal agreement in the gross misconduct if the other taken place after the conclusion of betrothal, the betrothed who had committed the gross misconduct shall be liable to make compensation to the other who has exercised his or her right to renounce the betrothal agreement as if the former had committed a breach of the betrothal agreement.

Section 1445. A man who is betrothed to a woman may, after the betrothal agreement having been renounced under the Section 1442, claim compensation from any man who has sexual intercourse with the woman and has known or should have known of her betrothal.

Section 1446. A man who is betrothed may, without requiring him to renounce the betrothal agreement, claim compensation from any man who has had sexual intercourse or attempted to have sexual intercourse with the woman against her will, and the fact that the woman had been betrothed has been known or ought to have known to him.

Section 1447. The Court shall determine the compensation claimed under this Chapter according to the circumstances.

The claim under this Chapter, except to one in Section 1440 (2), cannot be transferred or inherited unless such claim has been acknowledged in writing or the action for compensation has been entered by the injured person.

Section 1447/1. The prescription for the claim for compensation under Section 1439 shall be six months from the date of the breach of the betrothal agreement.

The prescription for the claim for compensation under Section 1444 shall be six months from the day when the commission of gross misconduct which is the cause of renunciation of the betrothal agreement is known or should have known to the other betrothed, but no later than five years from the date of the said commission.

The prescription for the claim for compensation under Section 1445 and Section 1446 shall be six months from the day when the betrothed man knows or should have known the commission of any other man which is the cause of the claim and the person bound to make the compensation is known, but not later than five years from the date of such commission.

Section 1447/2. The prescription for the claim for return of the **Khongman** under section 1439 shall be six months from the date of the breach of the betrothal agreement.

The prescription for the return of the **Khongman** under Section 1442 shall be six months from the date of denunciation of the betrothal agreement.

CHAPTER II

CONDITIONS OF MARRIAGE

Section 1448. A marriage can take place only when the man and woman have completed their seventeenth year of age. But the Court may, in case of having appropriate reason, allow them to marry before attaining such age.

Section 1449. A marriage cannot take place if either the man or the woman is an insane person or adjudged incompetent.

Section 1450. A marriage cannot take place if the man and woman are blood relations in the direct ascendant or descendant line, or brother or sister of full or half blood. The said relationship shall be in accordance with blood relation without regard to its legitimacy.

Section 1451. An adopter cannot marry the adopted.

Section 1452. A marriage cannot take place if the man or woman is already the spouse of another person.

Section 1453. In case of the woman whose husband died or whose marriage has become terminated, the marriage can only take place if not less than three hundred and ten days have elapsed since the termination of her previous marriage; unless

- (1) a child has been born during such period;
- (2) the divorced couple remarry;
- (3) there is a certificate issued by a qualified doctor who is a lawful physical practitioner in medicine showing that the woman is not pregnant;
- (4) there is an order of the Court allowing the woman to marry.

Section 1454. In case of marriage of a minor, the provisions of [Section 1436](#) shall apply *mutatis mutandis*.

Section 1455. Giving consent to the marriage may be made:

- (1) by affixing signature of the person giving consent in the Register at the time of registration of the marriage;
- (2) by a consent document stating the names of the parties to the marriage and signed by the person giving consent;
- (3) by verbal declaration before at least two witnesses in case of necessity.

The consent having been given cannot be revoked.

Section 1456. In case where there is no person having the power to give consent under Section 1454, or if the person refuses to give consent or is in the position of being unable to give consent, or the minor cannot, in such circumstances, ask for the consent, the minor may file an application with the Court for giving consent to the marriage.

Section 1457. Marriage under this Code shall be effected only on registration being made.

Section 1458. A marriage can take place only if the man and woman agree to take each other as husband and wife, and such agreement must be declared publicly before the Registrar in order to have it recorded by the Registrar.

Section 1459. A marriage in foreign country between Thai people or between a Thai people and a foreigner may be effected according to the form prescribed by Thai law or by the law of the country where it takes place.

If the spouses desire to have the marriage registered according to Thai law, the registration shall be effected by a Thai Diplomatic or Consular Officer.

Section 1460. In case where there exists special circumstances that make the marriage registration by the Registrar unable because either or both of the man and woman were in imminent danger of death or in the state of armed conflict or war, if a declaration of intention to marry has been made by the man and woman before a person of sui juris living there, who would have noted down as an

evidence such intention, and if the registration of marriage between the man and woman was effected thereafter not later than ninety days as from the date of first possible opportunity to apply for registration of marriage with production of the evidence of the intention in order to have the date and place of declaration of intention to marry and the special circumstances recorded by the Registrar in the Marriage Register, the day on which declaration of intention to marry has been made to the said person shall be deemed as the date of registration of marriage.

The provisions of this Section shall not apply to the marriage that is void if it should take place on the date of declaration of intention.

CHAPTER III

RELATIONSHIP OF HUSBAND AND WIFE

Section 1461. Husband and wife shall cohabit as husband and wife.

Husband and wife shall maintain and support each other according to his or her ability and condition in life.

Section 1462. Where the physical or mental health or happiness of either spouse is greatly imperiled by continuance of cohabitation, the spouse so imperiled may apply to the Court for authorization to live apart while the danger persists; and in such case, the Court may order such amount of maintenance to be furnished by one of the spouses to the other as may be proper according to the circumstances.

Section 1463. If one of the spouses is adjudged incompetent or quasi-incompetent, the other becomes guardian or curator by operation of law. But on application of any interested person or of Public Prosecutor, the Court may on substantial grounds, appoint another person as guardian or curator.

Section 1464. If one of the spouse becomes insane, irrespective of whether he or she has been adjudged incompetent or not, and the other fails to give proper maintenance to the insane spouse under Section 1461 paragraph two, does or fails to do any thing to the extent that it plunges the insaw spouse into the position which is likely endangering the latter's body or mind, or causing any undue loss to the latter's property, the persons as specified in [Section 28](#) or the guardian may enter an action against the other claiming maintenance for the insane spouse, or apply for any order of the Court to protect the insane spouse.

If, in case of entering the action for maintenance under paragraph one, no order has yet been given to effect the insane spouse to become incapacitated person, an application shall be made 10 the Court in the same case for an order effecting such insane spouse to be an incapacitated person and to appoint the applicant himself or herself as the guardian. If such order effecting the incapacitated person on the insane spouse has been given, an application for removal of the old guardian and appointment of a new one may be made.

In applying for any order of the Court for protecting the insane spouse without claiming maintenance, the applicant may not request the Court to order effecting the insane spouse to be an incapacitated person or to change the guardian. If the measures for protection as requested, in the opinion of the Court, requires an appointment or change of the guardian, the Court shall firstly give an order effecting the carrying out of the similar activities as provided in paragraph two, and then give a protection order as it is deemed suitable.

Section 1464/1 During the Court trial under Section 1464, the Court may, upon request, determine any temporary measures concerning the maintenance or protection of the insane spouse as it is deemed suitable. If it is a case of emergency, the provisions on the request in case of emergency under the Civil Procedure Code shall apply.

(up)

CHAPTER IV

PROPERTY OF HUSBAND AND WIFE

Section 1465. Where the husband and wife have not, previous to their marriage, concluded a special agreement concerning their properties, the relations between them as regards to their properties shall be governed by the provisions of this Chapter.

Any clause in the anti-nuptial agreement (example) contrary to public order or good morals, or provided that the relations between them as regards such properties are to be governed by foreign law shall be void.

Section 1466. The ante-nuptial agreement is void if not entered in the Marriage Register at the time of marriage registration terms of the ante-nuptial; or if not made in writing and signed by both spouses and by at least two witnesses and entered in the Marriage Register at the time of marriage registration stating that the ante-nuptial is thereto annexed.

Section 1467. After marriage the ante-nuptial agreement cannot be altered except by authorization of the Court.

When there is final order of the Court to effect the alteration or cancellation of the ante-nuptial agreement, the Court shall notify the Marriage Registrar of the matter in order to have it entered in the Marriage Register.

Section 1468. Clauses in the ante-prenuptial agreement shall have no effect as regards the rights of third persons acting in good faith irrespective of whether they be altered or cancelled by the order of the Court.

Section 1469. Any agreement concluded between husband and wife during marriage may be avoided by either of them at any time during marriage or within one year from the day of dissolution of marriage; provided that the right of third persons acting in good faith are not affected thereby.

Section 1470. Properties of husband and wife except in so far as they are set aside as **Sin Suan Tua**, are **Sin Somros**.

Section 1471. **Sin Suan Tua** consists of:

- (1) property belonging to either spouse before marriage
- (2) property for personal use, dress or ornament suitable for station in life, or tools necessary for carrying on the profession of either spouse
- (3) property acquired by either spouse during marriage through a will or gift
- (4) **Khongman**.

Section 1472. As regards to **Sin Suan Tua**, if it has been exchanged to other property, other property has been bought or money has been acquired from selling it, such other property or money acquired shall be **Sin Suan Tua**.

Where the **Sin Suan Tua** has been totally or partly destroyed but replaced by other property or the money, such other property shall be **Sin Suan Tua**.

Section 1473. Each spouse is manager of his or her **Sin Suan Tua**.

Section 1474. **Sin Somros** consists of:

- (1) property acquired during marriage;
- (2) property acquired by either spouse during marriage through a will or gift made in writing if it is declared by such will or document of gift to be **Sin Somros**;

(3) fruits of **Sin Suan Tua**.

In case of doubt as to whether a property in **Sin Somros** or not shall be presumed to be **Sin Somros**.

Section 1475. Where any **Sin Somros** is property of the kind mentioned in Section 456 of this Code or has documentary title, either husband or wife may apply for having his or her name entered in the documents as co-owners.

Section 1476. In managing the **Sin Somros** in the following cases, the husband and wife have to be joint manager, or one spouse has to obtain consent from the other:

- Selling, exchanging, sale with the right of redemption, letting out property on hire-purchase,
- (1) mortgaging, releasing mortgage to mortgagor or transferring the right of mortgage on immovable property or on mortgageable movable property.
 - (2) Creating or distinguishing the whole or a part of the servitude, right of inhabitation, right of superficies, usufruct or charge on immovable property.
 - (3) Letting immovable property for more than three years.
 - (4) Lending money
 - (5) Making a gift unless it is a gift for charitable, social or moral purposes and is suitable to the family condition.
 - (6) Making a compromise.
 - (7) Submitting a dispute to arbitration.
 - (8) Putting up the property as guarantee or security with a competent official or the Court.

The management of the **Sin Somros** in any case other than those provided in paragraph one can be made only by one spouse without having to obtain consent from the other.

Section 1476/1. The husband and wife can manage the **Sin Somros**, differently, in whole or in part, from provisions of Section 1476, provided that the ante-nuptial agreement under Section 1465 and Section 1466 has been made. In such case, the management of the **Sin Somros** shall be made in accordance with the ante-nuptial agreement.

In case the specifications of the management of the **Sin Somros** in the ante-nuptial agreement are only part in difference to the provisions of Section 1476, the management of the **Sin Somros** other than those specified in the ante-nuptial contract shall be made in accordance with Section 1476.

Section 1477. Either spouse is entitled to litigate, defend, take legal proceedings concerning maintenance of the **Sin Somros** or for the benefit of the **Sin Somros**. Debts incurred by the said litigation, defense and legal proceedings shall be regarded as the obligation to be performed jointly by the spouses.

Section 1478. Where one spouse has to give consent or to affix a signature together with the other in the management of the property, but unreasonably refuses to give such consent or to affix such signature, or is not in a position to give such consent, the latter may apply to the Court for an order granting the necessary permission.

Section 1479. Where an act by either spouse requires the consent of the other spouse, and if such act is required by law to be made in writing or registered by the competent official, such consent must be given in writing.

Section 1480. In the management of the **Sin Somros** which has to be made jointly or has to obtain the consent from the other spouse under Section 1476, if either spouse has entered into any juristic act alone or without consent of the other, the latter may apply in Court for revoking such juristic act, unless it has been ratified by the other spouse, or the third person was at the time of entering into such juristic act, acting in good faith and make the counter-payment.

The litigation for revocation of the juristic act by the Court under paragraph one cannot be made later than one year from the day when such cause as being the ground for the revocation is known,

or later than ten years since the juristic act was done.

Section 1481. Neither spouse is entitled to dispose of the **Sin Somros** by will in favour of the other persons to an extent exceeding his or her own portion thereof.

Section 1482. In case either spouse is the sole manager of the **Sin Somros**, the other spouse is nevertheless entitled to manage household affairs or provide for the necessities of the family, and the expenses therefore would bind the **Sin Somros** and **Sin Suan Tua** of both parties.

If such management of household affairs or provision for the necessities of the family by the husband or wife results in the undue loss, the other spouse may apply to the Court to forbid or limit his or her power.

Section 1483. In case either spouse is the sole manager of the **Sin Somros**, if the manager is going to commit or is committing any act in the management of the **Sin Somros** which would appear to result in undue loss, the other spouse may apply to the Court for an order forbidding commission of such act.

Section 1484. If either spouse who is the manager of **Sin Somros**:

- (1) causes undue loss to it;
- (2) fails to support the other spouse;
- (3) becomes insolvent or incurs debts to an amount exceeding one half of the **Sin Somros**;
- (4) hinders the management of **Sin Somros** by the other spouse without reasonable ground;
- (5) is found to have circumstances that will ruin the **Sin Somros**;

the other spouse may apply to the Court for an order authorizing him or her to be the sole manager or dividing the **Sin Somros**.

In case there is an application is made under paragraph one, the Court may determine temporary protective measures in the management of the **Sin Somros**. If that is the case of emergency, the provisions on the request in case of emergency under the Civil Procedure Code shall apply.

Section 1484/1. In case where has been an order of the Court forbidding or limiting the power of either spouse to manage the **Sin Somros**, if the cause which was the ground for the Court order or the circumstances have later changed, either spouse may apply to the Court revocation or change of the order forbidding or limiting the power to manage the **Sin Somros**. The Court in this effect may give any order which is deemed suitable.

Section 1485. The husband or wife may apply to the Court for authorizing him or her to be the manager of any particular **Sin Somros** or participate in the management, if such management or participation will bring about more benefit.

Section 1486. When the Court has pronounced a final judgment or given an order under Section 1482 paragraph two, Section 1483, Section 1484, Section 1484/1 or Section 1485 in favour of the applicant, or Section 1491, Section 1492/2 or Section 1598/17, or the husband and wife has been relieved of becoming bankrupt, the Court shall notify the marriage Registrar of the matter in order to have it entered in the Marriage Registrar.

Section 1487. No spouse can seize attach any property of the other during the marriage, except the seizure or attachment made in the case which has entered for the purpose of exercising his or her duty or for maintaining rights between husband and wife as specially provided in this Code or as specially provided by this Code allowing one spouse to sue the other, or for allowance due for maintenance and cost under the judgment of the Court.

Section 1488. Where either spouse is personally liable to perform an obligation incurred before or during marriage, such performance shall be first made out of his or her **Sin Suan Tua**; if the obligation is not performed in full, it shall be satisfied out of his or her portion of the **Sin Somros**.

Section 1489. Where both spouses are common debtors, the performance shall be made out of the

Sin Somros and the **Sin Suan Tua** of both spouses.

Section 1490. Debts that both spouses are jointly liable to perform, shall include the following debts incurred by either spouse during marriage:

- debts incurred in connection with management of household affairs and providing for the
- (1) necessities of the family, or maintenance, medical expenses of the household and for proper education of the children;
 - (2) debts incurred in connection with the **Sin Somros**;
 - (3) debts incurred in connection with a business carried on by the spouses in common;
 - (4) debts incurred by either spouse only for his or her own benefit but ratified by the other.

Section 1491. If either spouse is adjudged bankrupt, the **Sin Somros** is divided by operation of law as from the date of adjudication.

Section 1492. After the **Sin Somros** has been divided under Section 1484 paragraph two, Section 1491 or Section 1598/17 paragraph two, the portion so divided becomes **Sin Suan Tua** of each spouse. Any property obtained after the division by either spouse shall be **Sin Suan Tua** of that spouse and not be regarded as **Sin Somros**. And the property acquired thereafter by the spouse through a will or gift made in writing under [Section 1474](#) (2) shall become **Sin Suan Tua** of the husband and wife equally.

Fruits of the **Sin Suan Tua** accrued after the division of the **Sin Somros** shall be **Sin Suan Tua**.

Section 1492/1. In case the division of the **Sin Somros** is made by the order of the Court, the revocation of the division shall be made upon the request of either spouse and the Court has given the order to that effect. If either spouse raises an objection to such request, the Court cannot give an order for the revocation of the division of the **Sin Somros** unless the cause for division of the **Sin Somros** has ceased to exist.

After the division of the **Sin Somros** under paragraph one having been revoked, or suspended due to the husband or wife having been relieved from being bankrupt, the property which is the **Sin Suan Tua** on the date of the order of the Court, or on the date of his or her relieving from being bankrupt shall remain the same as **Sin Suan Tua**.

Section 1493. In case where the **Sin Somros** has been disposed of, both spouses are liable to pay for the household expenses in proportion to the amount of their respectation **Sin Suan Tua**.

(up)

CHAPTER V

VOID OF MARRIAGE

Section 1494. The marriage will be void only as provided in this Chapter.

Section 1495. The marriage which is made against [Section 1449](#), [Section 1450](#), [Section 1452](#) and [Section 1458](#) shall be void.

Section 1496. It is only a judgment of the Court that effects the void of the marriage which is made against [Section 1449](#), [Section 1450](#) and [Section 1458](#).

The spouses, parents or descendants of the spouse may apply for a judgment of the Court effecting the void of the marriage. If there is none of the said persons, any interested person may request the Public Prosecutor to apply to the Court for such judgment.

Section 1497. Any interested person may allege or apply for a judgment of the Court effecting that the marriage made against [Section 1452](#) is void .

Section 1497/1. In case there is a final judgment of the Court effecting the void of any marriage, the Court shall notify the Marriage Registrar of the matter in order to have it entered in the Marriage Register.

Section 1498. The void of marriage will not create property relation between husband and wife.

In case of marriage has been adjudged void, the property possessed or acquired by either party before or after the marriage as well as the fruits thereof remain as that party's property. As for the property jointly earned, they shall divided equally unless the Court deems it proper and order otherwise by taking into consideration the obligation in the family and earnings of both parties as well as their station in life, including all other circumstances.

Section 1499. The marriage adjudged void as being against [Section 1449](#), [Section 1450](#) or [Section 1458](#) shall not prejudice the right acquired through such marriage before pronouncing the final judgment effecting the void of the marriage by the party who has married in good faith.

The marriage adjudged void as being against [Section 1452](#) shall not prejudice the right acquired through such marriage before the cause that the maker the marriage void is known to the man or woman. But the said marriage shall not make one spouse become statutory heir of the other and have the right of inheritance to the other spouse.

In case of the marriage adjudged void as being against [Section 1449](#), Section 1450, [Section 1458](#) or Section 1452, if one party only acted in good faith, such party may claim compensation. However, if such marriage makes the party in good faith become destitute deriving insufficient income out of his or her property or business which used to be carried on before pronouncing the final judgment to effect the void of the marriage, or before the void of his or her marriage becoming known, as the case may be, that party can also claim living allowance, and the provisions of [Section 1526](#) paragraph one and Section 1528 shall apply to the claim for living allowances in this case, *mutatis mutandis*.

The prescription for claiming compensation or living allowances under paragraph three shall be two years from the date of pronouncing the final judgment to effect the void of the marriage in case of the marriage made against [Section 1449](#), [Section 1450](#) or Section 1448, or from the day when the void of his or her marriage becoming known in the case of the marriage made against Section 1452.

Section 1499/1. In case of the marriage adjudged void, the agreement between the spouses as to which party to exercise the parental power over any child, or either party or both of them to be responsible for the amount of contribution of the maintenance of the child shall be made in writing. If the agreement cannot be reached, the Court shall make decision on the matter. In making such decision, if the are grounds for depriving that spouse of parental power under Section 1582, the Court may give an order depriving that spouse of the same and appoint a third person as a guardian by taking into consideration the happiness and interest of the child, and the provisions of [Section 1521](#) shall apply, *mutatis mutandis*.

Section 1500. The marriage adjudged is void shall not prejudice the rights acquired by third person acting in good faith before entering the void of the marriage into the Marriage Register under Section 1497/1.

CHAPTER VI

TERMINATION OF MARRIAGE

Section 1501. Marriage is terminated by death, divorce or being cancelled by the Court.

Section 1502. A voidable marriage terminates upon cancellation decided by judgment of the Court.

Section 1503. An application to the Court for cancellation of marriage on the ground of its avoidable shall be made only in the case where the spouses have not complied with [Section 1448](#), Section 1505, Section 1506, Section 1507, and Section 1509.

Section 1504. An interested person other than the parents or guardian who have given their consent to the marriage is entitled to apply for cancellation of the marriage on the ground of its voidability.

If the court has not cancelled the marriage until both man and woman have completed the age

required under Section 1448 or if the woman has become pregnant before such completion, the marriage shall be deemed to be valid from the time it was made.

Section 1505. A marriage which is made on account of mistake as to the identity of the other spouse shall be deemed to be voidable.

The right to apply for cancellation of the marriage on account of mistake as to the identity of the spouse shall be terminated after the lapse of ninety days from the date of marriage.

Section 1506. A marriage is voidable if it is made by the spouses on account of fraud to such an extent that without it the marriage would not have been made.

The provisions of paragraph one shall not apply to the case where the other spouse has not known the fraud committed by a third person.

The right to apply for cancellation of the marriage on account of fraud shall be terminated after the lapse of ninety days from the day on which the spouse has known or should have known of the fraud, or after the lapse of one year from the date marriage.

Section 1507. A marriage is voidable if it is made by the spouses on account of duress to such an extent that without it the marriage would not have been made.

The right to apply for cancellation of the marriage on account of duress shall be terminated after the lapse of one year from the day on which the spouse is free from duress.

Section 1508. Where the marriage is voidable on account of mistake as to the identity of the spouse, fraud or duress, only the spouse who mistook the identity of the other, or was induced by fraud or duress to contract the marriage may apply for the cancellation of such marriage.

In case where the person entitled to apply for the cancellation of the marriage has been adjudged incompetent, the person who may apply to the Court for an order effecting an insane person to be an incapacitated person under [Section 29](#), may also apply for the cancellation of such marriage. Where the person entitled to apply for the cancellation of the marriage is an insane person not yet adjudged incompetent, the said person may apply for the cancellation of such marriage but must apply concurrently to the Court for an order effecting him to be an incapacitated person. If the Court gives an order revoking the application for an order effecting him to be an incapacitated person, the Court shall also order revoking the application made by the said person for the cancellation of the marriage.

The order of the Court revoking the application made by the person for cancellation of the marriage under paragraph two does not effect the right of the spouse to apply for the cancellation of the marriage; provided that the spouse exercise his or her right within the remaining period of time. If the remaining period of time is less than six months as from the day on which the order of the Court revoking the application made by the said person for cancellation of the marriage is given, or if there remains no such period, the period of time shall correspondingly be extended to the completion of six months as from the day on which the order of the Court revoking the application made by the said person for the cancellation of the marriage is given.

Section 1509. The marriage made without consent of the persons mentioned in [Section 1454](#) is voidable.

Section 1510. Where the marriage is voidable on account of having been made without consent of the persons mentioned in [Section 1454](#), only the person who can give the consent under [Section 1454](#) may apply for the cancellation of the marriage.

The right to apply for the cancellation of the marriage under this Section is extinguished when the spouse has completed the age of twentieth year or when the woman has become pregnant.

The action for the cancellation of the marriage under this Section is barred by prescription after one year from the day where the marriage is known.

Section 1511. The marriage which is cancelled by judgment of the Court shall be deemed to have terminated on the day when the judgment becomes final; provided, however, that it may not be set up to the prejudice of the rights of third persons acting in good faith unless the cancellation of the marriage has been registered.

Section 1512. The provisions concerning the result of divorce by judgment of the Court shall apply to the result of cancellation of the marriage *mutatis mutandis* [Ed. Latin, the necessary changes having been made].

Section 1513. If it appears that the spouse sued on cancellation of the marriage has known of the ground of the avoidability, such spouse is required to make compensation for the damage to the body, reputation or property of the other arising from such marriage, and the provisions of Section 1525 shall apply *mutatis mutandis*.

If the other spouse becomes destitute due to the cancellation of the marriage under paragraph one and derives insufficient income out of his or her property of business which used to be carried on during the marriage, the spouse against whom the action has been brought is also required to be liable to living allowances as provided in section 1526.

Section 1514. Divorce may be effected only by mutual consent or by judgment of the Court.

Divorce effected by mutual consent must be made in writing and certified by the signatures of at least two witnesses.

Section 1515. Where marriage has been registered as provided by this Code, divorce by mutual consent is valid only if the registration thereof is effected by both the husband and wife.

Section 1516. Grounds of action for divorce are as follows:

- (1) the husband has given maintenance to or honored such other woman as his wife, or the wife has committed adultery, the other spouse may enter a claim for divorce;
- (2) one spouse is guilty of misconduct, notwithstanding whether such misconduct is a criminal offence or not, if it causes the other:
 - (a) to be seriously ashamed;
 - (b) to be insulted or hated or account of continuance of being husband or wife of the spouse having committed the misconduct; or
to sustain excessive injury or trouble where the condition, position and cohabitation as husband and wife are taken into consideration;
 - (c) the latter may enter a claim for divorce;
- (3) one spouse has caused serious harm or torture to the body or mind of the other, or has seriously insulted the other or his or her ascendants, the latter may enter a claim for divorce;
- (4) one spouse has deserted the other for more than one year, the latter may enter a claim for divorce;
 - (4/1) one spouse had been sentenced by a final judgment of the Court and has been imprisoned for more than one year in the offence committed without any participation, consent or in the knowledge of the other, and the cohabitation as husband and wife will cause the other party sustain excessive injury or trouble, the latter may enter a claim for divorce;
 - (4/2) The husband and wife voluntarily live separately because of being unable to cohabit peacefully for more than three years, or live separately for more than three years by the order of the Court, either spouse may enter a claim for divorce;
- (5) one spouse has been adjudged to have disappeared, or as left his or her domicile or residence for more than three years and being uncertain whether he or she is living or dead;
- (6) one spouse has failed to give proper maintenance and support to the other, or committed acts

seriously adverse to the relationship of husband and wife to such an extent that the other has been in excessive trouble where the condition, position and cohabitation as husband and wife are taking into consideration, the latter may enter a claim for divorce;

- (7) one spouse has been an insane person for more than three years continuously and such insanity is hardly curable so that the continuance of marriage cannot be expected, the other may enter a claim for divorce;
- (8) one spouse has broken a bond of good behavior executed by him or her, the other spouse may enter a claim for divorce;
- (9) one spouse is suffering from a communicable and dangerous disease which is incurable and may cause injury to the other, the latter may file a claim for divorce;
- (10) one spouse has a physical disadvantage so as to be permanently unable to cohabit as husband and wife, the other may enter a claim for divorce.

Section 1517. No action for divorce may be instituted by the husband or wife, as the case may be if such spouse has consented to or connived at the acts under Section 1516 (1) and (2) upon which the action for divorce is based.

If the ground of action for divorce under Section 1516 (10) has resulted from the act of the other spouse, the action for divorce based upon such ground may not be instituted by such other spouse.

Where the action for divorce based upon the ground under section 1516 (8) has been instituted, the Court may not pronounce judgment to effect the divorce if the behavior of the husband or wife that causes the bond to have been executed is a minor cause or of no importance in relation to peaceful cohabitation as husband and wife.

Section 1518. The right to institute an action for divorce would be terminated if the spouse entitled thereto has committed any act showing his or her forgiveness to the act done by the other that has caused the right to institute the action for divorce.

Section 1519. In case where one spouse is an insane person and if there gives rise to the ground of action for divorce irrespective of whether it arises before or after the insanity, the person entitled to apply to the Court for an order effecting the insane person to be an incapacitated person under [Section 28](#)* shall have the power to enter an action against the other spouse for divorce and liquidation of the property. In such a case if no order of the Court effecting the insane spouse to be an incapacitated person has yet been given, the said person shall apply to the Court in the same case for an order effecting the insane spouse to be an incapacitated person.

The said person may, if deemed suitable, also apply to the Court for giving the order under Section 1526 and Section 1530.

In case where the spouse alleged to be an insane person has not yet been adjudged incompetent, and if the Court deems that such spouse should not be judged incompetent, the case shall then be dismissed. If the spouse is deemed suitable to be adjudged incompetent but an order to effect the divorce should not yet be given as yet, the Court shall adjudge the spouse to be an incapacitated person and may not give order concerning the guardian or appointing other person to be guardian under [Section 1463](#) while the application for divorce will be dismissed, and the Court may in this connection give an order determining living allowances. In case where the spouse is deemed to be insane and should be adjudged incompetent by the Court and the application for divorce should also be granted, the Court shall issue an order in the judgment effecting such spouse to be an incapacitated person, appointing a guardian and allowing the divorce.

In case where the Court deems that the ground upon which the claim for divorce is based is not proper to the condition of the incapacitated spouse who is going to divorce the other spouse, if it is not proper under such circumstances that divorce should be allowed, the Court may not pronounce the judgment to effect the divorce.

Section 1520. In case of divorce by mutual consent, the spouses shall make an agreement in writing

for the exercise of parental power over each of the children. In the absence of such agreement or an agreement thereon cannot be reached, the matter shall be decided by the Court.

In case of divorce by judgment of the Court, the Court trying the divorce case shall also order that the parental power over each of the children belongs to any party. If, in such trial, it is deemed proper to deprive that spouse of the parental power under Section 1582, the Court may give an order depriving that spouse of the same and appointing a third person as a guardian, by taking into consideration the happiness and interest of the child.

Section 1521. If it appears that the person exercising parental power of the guardian under Section 1520 behaves himself or herself improperly or there is a change of circumstances after the appointment, the Court has the power to give an order appointing a new guardian by taking into consideration the happiness and interest of the child.

Section 1522. In case of divorce by mutual consent, an arrangement shall be made and contained in the agreement of divorce as to who, both of the spouses or either spouse, will contribute to the maintenance of the children and how much is the contribution.

In case of divorce by judgment of the Court or in case the agreement of divorce contains no provisions concerning the maintenance of the children, the Court shall determine it.

Section 1523. In case of divorce by judgment of the Court on the ground as provided in Section 1516 (1), the husband or wife is entitled to compensation from the husband or wife and other woman or adulterer, as the case may be.

The husband is entitled to claim compensation from any person who has wrongfully taken liberties with his wife in an adulterous manner, and the wife is entitled to claim compensation from other woman who has openly shown her adulterous relations with the former's husband. However, the husband or wife is not entitled to claim compensation if he or she has consented to or connived at the act done by other party under Section 1516 (1) or allowed other person to act as provided in paragraph two.

Section 1524. If the ground of action for divorce under Section 1516 (3), (4) or (6) has arisen through an act of the party at fault with the intention to make the other party so intolerable that action for divorce has to be entered, the other party is entitled to compensation from the party at fault.

Section 1525. The compensation under Section 1523 and Section 1524 shall be decided by the Court according to the circumstances, and the Court may give an order for a single payment thereof or payment in instalments as may be deemed suitable by the Court.

In case where the person who has to make the Compensation is a spouse of the other party, the share of the property received by the former from the liquidation of the **Sin Somros** on account of divorce shall also be taken into consideration.

Section 1526. In a case of divorce, if the ground for divorce has derived from the guilt of only one party, and the divorce will make the other become destitute deriving insufficient income out of his or her property or business which used to be carried on during the marriage, the latter is entitled to apply for the living allowances to be paid by the party at fault. The Court may decide whether the living allowances be granted or not by taking the ability of the grantor and the condition in life of the receiver into consideration, and the provisions of Section 1598/39, Section 1598/40 and Section 1598/41 shall apply *mutatis mutandis*.

The right to claim the living allowances is extinguished if it is not raised in the plaint or counter-claim in the action for divorce.

Section 1527. If a divorce is effected on the ground of insanity under Section 1516 (7) or on the ground of suffering from a communicable and dangerous disease under Section 1516 (9), the other spouse shall furnish living allowances to the spouse who is insane or is suffering from the disease, according to Section 1526, *mutatis mutandis*.

Section 1528. If the party receiving living allowances remarries, the right to receive living allowances is extinguished.

Section 1529. Rights of action based upon any of the grounds provided in Section 1516 (1), (2), (3) or (6), or Section 1523 are extinguished after one year when the fact which can be alleged by the claimant has been known or should have been known to him or her. Grounds upon which a claim for divorce can no longer be based may still be proved in support of another claim for divorce based upon other grounds.

Section 1530. Where an action for divorce is pending, the Court may, on application of either party, make any provisional order which it thinks proper such as those concerning the **Sin Somros**, the lodging, the maintenance of the spouses and the custody and maintenance of children.

Section 1531. In case where a marriage has been registered according to law, divorce by mutual consent takes effect from the time of registration.

Divorce by judgment of the Court takes effect on and from the time when the judgment becomes final; however, such judgment may not be set up to the prejudice to the rights of third persons acting in good faith unless the divorce has been registered.

Section 1532. After divorce, the property of the husband and wife shall be subject to liquidation.

But as between the spouses,

- (a) in case of divorce by mutual consent, the liquidation shall apply to the property of the husband and wife as it was on the date of registration of divorce;
- (b) in case of divorce by judgment, the liquidation shall apply to the property of the husband and wife as it was on the day when the action for divorce was entered in Court.

Section 1533. Upon divorce, the **Sin Somros** shall be divided equally between man and woman.

Section 1534. Where either spouse has made disposal of the **Sin Somros** for his or her exclusive benefit, or has made disposal thereof with an intention to cause injury to the other, or has made disposal thereof without the consent of the other in the case where such disposal is required by law to have consent of the other, or has wilfully destroyed it, it shall, for the purpose of division of the **Sin Somros** under Section 1533, be regarded as if such property had still remained. If the share of the **Sin Somros** that the other will receive is not complete to what he or she should have received, the party at fault is required to make up for the arrears from his or her share of the **Sin Somros** or his or her **Sin Suan Tua**.

Section 1535. Upon termination of the marriage, the man and woman shall be liable for common debts equally.

Samuifrosale

TITLE II

PARENT AND CHILD

CHAPTER I

PARENTAGE

Section 1536. A child born of a woman during wedlock or within three hundred and ten days after the termination of the marriage is presumed to be the legitimate child of the husband or the man who used to be the husband, as the case may be.

The provisions of paragraph one shall apply to a child born of a woman before the marriage has been announced void by the final judgment of the Court, or within three hundred and ten days as from the date of such final judgment.

Section 1537. In case where the woman had made the new marriage and gave birth to a child within three hundred and ten days as from the day of termination of the marriage, the child shall be presumed to be the legitimate child of the new husband, and no presumption under Section 1536 saying that the child is the legitimate child of the former husband shall apply; provided that there is a judgment pronouncing that the child is not the legitimate child of the new husband.

Section 1538. In case where the man or woman had made the marriage against [Section 1452](#), a child born during such marriage shall be presumed to be the legitimate child of the husband who has last marriage entered into the Marriage Register.

In case where the woman had made the marriage against Section 1452, the presumption in Section 1536 shall apply; provided that there is a final judgment pronouncing that the child is not legitimate child of the husband who has the last marriage entered into the Marriage Register.

The provisions of paragraph one shall apply to the child born within three hundred and ten days from the date of the final judgment pronouncing the void of the marriage made against Section 1452.

Section 1539. In case where the child is presumed to be the legitimate child of the husband or the man who used to be the husband under Section 1536, Section 1537 or Section 1537 or Section 1537 or Section 1538, the husband or the man who used to be the husband may repudiate the child by entering an action in Court against the child and the mother jointly, and providing that he did not cohabit with the mother of the child during the period of conception, that is to say, the period extending from the one hundred and eightieth day to the three hundred and ten day inclusive, prior to the birth of the child, or that he could not have been the father of the child on other grounds of impossibility.

The action may be brought against only the child if at the time of entering the action the mother of the child is not alive. Where the child is not alive irrespective of whether the mother of the child is alive or not, the Court may be requested to declare that the child is not his legitimate child. In case where the mother of the child or the heir of the child is still alive, the Court shall send a copy of the request to the said person and may, if it thinks proper, send also a copy of the request to the Public Prosecutor for consideration of proceeding the case on behalf of the child.

Section 1540. (Repealed)

Section 1541. An action for repudiation of a child cannot be entered by the husband or the man used to be the husband if it appears that the latter causes to have the birth of the child entered in the Birth Register as his legitimate child or arranges or agrees to have it entered in the Birth Register.

Section 1542. An action for repudiation of a child shall be entered by the man who is or used to be the husband within one year after the birth of the child. In any case no such action can be entered later than ten years after the birth of the child.

In case where there is a judgment pronouncing that the child is not the legitimate child of the new husband under Section 1537 or of the husband in the last marriage under Section 1538, if the husband of the man who used to be the husband and is presumed by Section 1536 to be the father of the child, he shall enter the action within one year since the final judgment became known to him.

Section 1543. In case where the man being or used to be the husband who has entered an action for repudiation of the child, died before the case becoming final, a person who has the right of inheritance together with the child or a person whose right of inheritance would be deprived on account of the birth of the child, may file a motion to substitute himself or may be summoned to substitute for the deceased.

Section 1544. An action for repudiation of a child can be entered by a person who has the right of inheritance together with the child or by a person whose right of inheritance would be deprived on account of the birth of the child in the following cases:

- (1 the man who is or used to be the husband died before the expiration of the period within which
) the action could have been entered by him;
the child was born after the death of the man who is or used to be the husband. The action for
(2 repudiation of the child under (1) must be entered within six months since the death of the man
) being or having ever been the husband becoming known to that person. In any case no such
action can be entered later than ten years after the birth of the child.

The provisions of Section 1539 shall apply to the entering of an action for repudiation of the child, *mutatis mutandis*.

Section 1545. A child may request the Public Prosecutor to enter an action under Section 1536 for repudiation to be legitimate child of the husband of his or her mother if it becomes known to the child that he or she is not an inherited child of the husband of the mother.

In entering the action under paragraph one, if it becomes known to the child before he or she becoming *sui juris* that he or she is not the legitimate child of the husband of his or her mother, no action can be entered by the Public Prosecutor after one year as from the date of his or her becoming *sui juris*. If it becomes known to the child after his or her becoming *sui juris*, no action can be entered by the Public Prosecutor later than one year since the day when the facts come to his or her knowledge.

Section 1546. A child born of a woman who is not married to a man is deemed to be the legitimate child of such woman.

Section 1547. A child born of the parents who are not married to each other is legitimate by the subsequent marriage of the parents, or by the registration made on application by the father, or by a judgment of the Court.

Section 1548. When legitimation is applied for by the father, the child and the mother must give consent to the applicant.

In case where the child and the mother do not appear before the Registrar for giving the consent, the Registrar shall notify the child and the mother of the father's application for registration. If the child or the mother raises no objection or does not give the consent within sixty days after the acceptance of the notification by the child or mother, it is presumed that the child or the mother does not give consent. The period of time shall be extended to one hundred and eighty days in case where the child or the mother has been outside Thailand.

In case where the child or the mother raises an objection that the applicant is not the father, or does not give the consent, or is unable to give the consent, the registration for legitimation must be effected by a judgment of the Court.

After the Court had pronounced a judgment effecting the registration of the legitimation and the judgment has been produced to the registrar for registration, the Registrar shall effect the registration.