

Civil Code

BOOK I

**TITLE I – Of the laws, their interpretation and application**

**CHAPTER I - Sources of Law**

**Article 1 – Immediate Sources**

1. Laws and corporate rules are immediate sources of Law.
2. All generic provisions enacted by competent state organs are considered laws; rules made by the representative organs of the different moral, cultural, economic or professional categories, covering their field of competences, as well as their statutes and internal regulations are considered corporate rules.
3. Corporate rules cannot contravene the mandatory legal provisions.

**Article 2 – “Assentos”**

(Revoked by Decree-law no. 329-A/95, 12/12)

**Article 3 - Legal value of Uses**

The uses that are not contrary to the principles of good-faith are legally justifiable when the law so determines.

2. Corporate rules prevail over Uses.

**Article 4 - Value of Equity**

Courts can only solve, according to equity:

- a) When there is a legal provision that permits it;
- b) When there is an agreement between the parties and the legal relation is not unavailable (“indisponível”);
- c) When the parties have previously agreed upon resorting to equity, pursuant to the terms applicable to the commitment clause.

## **CHAPTER II – Entering into force, interpretation and application of laws**

### **Article 5 - Entering into force of the law**

1. The law only becomes mandatory after publication in the Official Gazette.
2. Between publication and the entering into force of the law there will be a period that the law itself sets or, in the absence of fixation, the one which is determined by special legislation.

### **Article 6 - Ignorance or misinterpretation of the law**

Ignorance or misinterpretation of the law does not justify the lack of compliance, neither does it release people from the penalties set out in it.

### **Article 7 - Termination of the law**

1. When it is not intended to have a temporary effect, the law only ceases to be in force if it is revoked by another law.
2. The revocation may result from an express declaration, of incompatibility between the new provisions and the precedent rules, or from the fact that the new law regulates the whole matter of the earlier law.
3. The general law does not revoke a special law, unless other is the unequivocal intention of the legislator.
4. The revocation of the revoking law does not imply the rebirth of the law that the latter had revoked.

### **Article 8 - Obligation to judge and the duty of obedience to the law**

1. The court cannot refrain from judging with grounds of absence or obscurity of the law, or claiming irremediable doubt about the facts in dispute.
2. The duty of obedience to the law cannot be rejected under the pretext of the content of the rule of law being unjust or immoral.
3. In decisions set to be given, the judge will consider all cases that deserve similar treatment, in order to obtain a uniform interpretation and application of Law.

### **Article 9 - Interpretation of the law**

1. The interpretation should not be limited to the letter of the law; it must reconstruct the legislative thought with the help from texts, having in consideration, especially, the unity of the legal system, the circumstances in which the law was drafted and the specific conditions of the time in which it is applied.
2. However, it may not be considered by the interpreter the legislative thought that does not have, on the letter of the law, a minimum of verbal correspondence, however imperfectly expressed.

3. In setting the direction and scope of the law, the interpreter will assume that the legislator consecrated the wisest solutions and knew how to express his thoughts on appropriate terms.

#### **Article 10 - Integration of the gaps of the law**

1. The cases that the law does not provide are regulated according to the rules that are applicable to similar cases.

2. There is analogy whenever, in the ignored case, the reasons which justify the regulation of the case provided by law arise.

3. In the absence of a similar case, the situation is resolved according to the rule that the interpreter would create, if he were to legislate in the spirit of the system.

#### **Article 11 – Exceptional rules**

Exceptional rules do not stand application by analogy, but they admit extensive interpretation.

#### **Article 12 - Application of laws in time. General Principle**

1. The law provides only for the future; despite having retroactive effect, it is assumed that the effects which were already produced by the facts that the law is intended to regulate, will remain safeguarded.

2. When the law provides for the conditions of formal or substantive validity of any facts, or about its effects, it is understood, in case of doubt, that it only seeks new facts; but, when it provides directly on the content of certain juridical relations, disregarding the facts that gave rise to, it is understood that the law covers the relations already established, subsisting at the date of its entry into force.

#### **Article 13 - Application of laws in time. Interpretative laws**

1. The interpretative law is part of the interpreted law, keeping safeguarded, however, the effects already produced by the performance of the obligation, by final judgment, per transaction, even if not homologated yet, or by acts of similar nature.

2. The waiver and confession not homologated by the court may be revoked by the quitter or the penitent to whom the interpretative law is favourable.