

## CHAPTER II

### RIGHTS AND DUTIES OF PARENT AND CHILD

**Section 1561.** A child has the right to use the family name of the father. In case the father is unknown, a child has the right to use the family name of the mother.

**Section 1562.** No person can enter an action, either civil or criminal, against his ascendants, unless the case is taken up by the Public Prosecutor upon application of such person or a close relative of such person.

**Section 1563.** Children are bound to maintain their parents.

**Section 1564.** Parents are bound to maintain their children and to provide proper education for them during their minority.

When the children are *sui juris*, parents are bound to maintain them only when they are infirm and unable to earn their living.

**Section 1565.** As regards the applications for maintenance of the children or for any other form of maintenances to be given to children, it may be taken up by the father or the mother except the case to be taken up by the Public Prosecutor according to Section 1562.

**Section 1566.** A child is subject to parental power as long as he is not *sui juris*.

The parental power is exercised by the father or the mother in any of the following cases;

1. the mother or the father is dead;
2. It is uncertain whether the mother or the father is living or dead;
3. the mother or the father has been adjudged incompetent or quasi-incompetent;
4. the mother or the father is placed in a hospital by reason of mental infirmity;
5. the parental power has been granted to the mother or the father by an order of the court;
6. the mother or the father have come to such agreement as provided by the law that it can be made.

**Section 1567.** A person exercising parental power (natural guardian) has the right:

1. to determine the child's place of residence;
2. to punish the child in a reasonable manner for disciplinary purposes;
3. to require the child to do such work as may be reasonable to his ability and condition in life;
4. to demand the return of the child from any person who unlawfully detains him.

**Section 1568.** Where a person who already has a child marries another person the parental power over such child is exercised by the former person.

**Section 1569.** A person exercising parental power is the legal representative of the child. If the child is adjudged incompetent or quasi-incompetent, the person exercising parental power shall be the custodian or curator, as the case may be.

**Section 1569/1.** In case where the minor has been adjudged incompetent or quasi-incompetent and other person who is not the one exercising the parental power or the guardian has been appointed as the guardian by the order of the Court, such order shall effect the revocation of the person exercising the parental power or guardian, at the moment.

In case where the person being *sui juris* and having no spouse has been adjudged incompetent or quasi-incompetent, the parents or the father or the mother shall be the guardian or curator, as the case may be, unless the Court shall order otherwise.

**Section 1570.** Notifications made by or to the person exercising parental power according to Section 1566 or Section 1568 are deemed to notifications made by or to the child.

**Section 1571.** Parental power includes the management of the property of the child and such management shall be exercised with the same care as that of a person of ordinary prudence.

**Section 1572.** A person exercising parental power cannot, without the consent of the child, create an obligation the subject of which is personal to the child.

**Section 1573.** If the child has an income, it shall in the first place be used for his maintenance and education; any residue thereof shall be kept by the person exercising parental power and be returned to the child. But, if the person exercising parental power has no income sufficient for living to his condition in life, that income may be expended in a reasonable measure by the person exercising parental power, unless it is an income derived from gift or legacy subject to the condition that it shall not be for the benefit of the person exercising parental power.

**Section 1574.** A person exercising parental power cannot enter into any of the following juristic acts with regard to the property of the minor except with permission of the Court;

1. selling, exchanging, sale with right of redemption, letting out property on hire-purchase, mortgaging, releasing mortgage to mortgagor or transferring the right of mortgage on immovable property or on mortgageable movable property;
2. extinguishing the whole or a part of real right of the minor on immovable property;
3. creating servitude, right of inhabitation, right of superficies, usufruct or any charge on immovable property;
4. disposing of the whole or a part of the claim the purpose of which is to create real right on immovable property or on mortgageable property, or the claim the purpose of which is to have a real right on such property of the minor relieved;
5. letting immovable property for more than three years;

6. creating any commitments the purpose of which is to achieve the objective as provided in (1), (2) and (3);
7. making a loan of money;
8. making a gift, except out of the income of the minor on the minor's behalf for charitable, social or moral purposes, and suitable to the minor's condition in life;
9. accepting a gift subject to any condition or charge, or refusing a gift;
10. giving guarantee by any means whatsoever which may cause the minor to be compelled to perform an obligation or to enter into other juristic act, as requiring the minor to perform an obligation to other person or on behalf of other person;
11. making benefit out of the property other than those provided in Section 1598/4 (1), (2) or (3)
12. making a compromise;
13. submitting a dispute to arbitration.

**Section 1575.** Where in regard to any act, the interests of a person exercising parental power or the interests of a spouse or children of a person exercising parental power conflict with those of the minor, the former must obtain the permission of the court in order to perform such act, failing such act shall be void.

**Section 1576.** The interests of a person exercising parental power or the interests of a spouse or children of a person exercising parental power in Section 1575 shall include interest in the following businesses:

1. Interests in the business that the said person performs with an ordinary partnership of which that person is a partner.
2. Interests in the business that the said person performs with a limited partnership of which that person is a partner with unlimited liability.

**Section 1577.** A person may transfer by legacy or gift a property to a minor, subject to its being managed, up to the time of majority, by a person other than the person exercising parental power.

Such manager must be named by the transferor, in default, or by court and his management shall be subjected to Section 56, Section 57 and Section 60.

**Section 1578.** When parental power ceases as the minor is sui juris, the person who exercised parental power must hand over to the child for certification, without delay, the property so managed and render to him a written account thereof, and if there is any document relating thereto, it shall be handed over at the same time as the account.

If the parental power ceases other than those mentioned in paragraph one, the property, account and document relating to management of the property shall be handed over to the person exercising parental power, if any, or to the guardian, as the case may be, for certification.

**Section 1579.** In case where one spouse is dead and the other who has a child born within wedlock intends to make a new marriage, if the latter has possessed the property properly separated for the child, the property may be handed over to the child when the child can manage it, or the property may be kept and handed over to the child at the proper time. If it is the property specified in Section 456 or has a documentary title, the child's name shall be entered in the document as the co-owner, and that the marriage cannot take place unless the aforesaid management has been completed.

If there is reasonable ground, the Court may give an order allowing the said spouse to make the marriage first. But the Court must specify in the order that the spouse must complete the separation of the property and a making of an inventory as provided in paragraph one within a specified period of time after the marriage.

In case the marriage is made in contravention of paragraph one, or in case the spouse does not comply with the order of the Court given under paragraph two, the Court may on its knowledge of the fact or on application of the minor's relative or of the Public Prosecutor, give an order depriving the spouse of the parental power or directing any person to make the inventory and to have the child's name entered as co-owner in the said document instead, and any expenses incurred thereby shall be borne by the spouse.

For the purpose of this Section, the adopted of the deceased spouse and of the living spouse shall be deemed to be a child borne of the spouse.

**Section 1580.** The minor having been *sui juris*, the person exercising the parental right or the guardian can make a certificate to the management of the minor's property after the property, account and documents as provided in Section 1587 have been obtained.

**Section 1581.** An action relating to the management of property between the minor and the person exercising parental power cannot be entered later than one year from the time of the cessation of the right of management.

If the parental power ceases while the child is a minor, the period mentioned in paragraph one is computed from the time when the child becomes *sui juris* or has a new legal representative.

**Section 1582.** When the person exercising parental power is adjudged incompetent or quasi-incompetent, or abuses his or her parental power as regards the child's person, or is guilty of gross misconduct, the Court may, of its own motion or on the application of a close relative of the child or of the Public Prosecutor, order the deprivation of the parental power either partly or wholly.

If the person exercising parental power is bankrupt or likely to endanger the minor's property by mismanagement, the Court may, upon the same proceedings as mentioned in the paragraph one, order the deprivation of the right of management.

**Section 1583.** If the causes mentioned in the forgoing Section have ceased to exist, a person who has been partly or wholly deprived of parental power may recover it by permission of the Court on application made by him or by a relative of the minor.

**Section 1584.** A person who has been deprived partly or wholly of parental power is not thereby relieved from the duty to furnish maintenance to the minor according to law.

**Section 1585.** The father or mother would be entitled to conact his or her child , as may be suitable to the circumstances, irrespective of whether who is the person exercising the parental power or the guardian.