

ประมวล ๗

The Swiss Civil Code

Title VI Matrimonial Property Law

Art. 185. Where a material ground exists, the court shall make an order for the separation of estates at the instance of a spouse.

In particular a material ground exists :

1. where the other spouse is excessively indebted or the other spouse's share of the property held in common is distressed ;

2. where the other spouse endangers the interests of the petitioner or of the conjugal union ;

3. where the other spouse, without material grounds refuses to give his or her consent which is required for a disposal of the property held in common ;

4. where the other spouse refuses to give the petitioner information regarding his or her income, assets and liabilities or the property held in common without having material grounds for his or her refusal ;

5. where the other spouse is permanently devoid of discretion.
Where a spouse is permanently devoid of discretion, his or her guardian or committee can also for this reason, request the separation of estates.

Art.186. The property court is the court at the domicile of the one of the spouses.

Art. 187. By way of marriage covenant the spouse may at any time, agree upon their previous or a different matrimonial property system.

Where the ground for the separation of estates has been removed, the court can, at the instance of a spouse, order the resumption of the previous matrimonial property system.

Art. 188 Where a spouse living under the system of community of property of property goes bankrupt, the matrimonial property will, by operation of the law, fall under the system of separate estates.

Art. 189 Where a spouse living under the system of community of property suffers enforced payment of debts regarding his or her own property and execution on his or her share of the property held in common, the supervising authority for the enforcement of payments can demand that the court makes an order for the separation of estates.

Art. 190 The petition is directed against both spouses.

The proper court is the court at the debtor's domicile.

Art. 192 Where the separation of estates takes place, the divisions of matrimonial property is governed by the previous of the previous matrimonial property system, unless provided otherwise by the law.

Art. 196. The matrimonial property system of participation in acquisitions consists of the acquisitions and of each spouse's own property.

Art. 197. A spouse's acquisitions is that property which a spouse acquires as income during the matrimonial property system.

The acquisitions of a spouse comprise in particular :

1. His or her income from work ;
2. Payments made by staff welfare institutions, social insurances and social welfare institutions;
3. Indemnities for incapacity to work;
4. The revenues from his or her own property;
5. Replacements of items which have been part of the acquisitions.

Art. 198. The following property is, by operation of the law, each spouse's own property:

1. articles which are intended for the exclusive personal use of a married person;

2. property which belongs to, a spouse at the beginning of a matrimonial property system or which comes to the spouse during marriage by succession or other gratuitous title;

3. claims for payment of a sum of money by way of moral compensation;

4. replacements of items which have been part of a spouse's own property.

Art. 199. The spouses can provide by a marriage covenant the such property of the acquisitions is declared as a spouse's own property which is required for the execution of a profession or the running of a business.

In addition the spouses can stipulate in a marriage covenant that revenues from a spouse's own property do not belong to the acquisitions.

Art. 200 The spouse who asserts that a certain property is his or her property must provide evidence for this assertion.

Where this evidence cannot be provided it is assumed that the property is owned by both spouses jointly.

All property of a spouse is deemed as acquisitions before the contrary can be proved.

Art. 201. Within the legal limits each spouse administers and uses his or her own acquisitions and his or her own property and disposes of them in his or her right.

Where a property is co-owned by both spouse, neither of the spouse can dispose of his or her share with out the other spouse's consent, unless a different arrangement has been agreed upon.

Art. 202. Each spouse is liable for his or her debts with his or her whole property.

Art. 215. Each spouse or his or her heirs are entitled to half of the other spouse's matrimonial profit.

Art. 216. Another arrangement regarding the participation in the matrimonial profit can be agreed upon in marriage covenant.

Such arrangements must not encroach on the compulsory portions of children who were not born in the spouses' conjugal union and their issue.

Art. 221. The matrimonial system of community of property comprises the common property and each spouse's own property.

Art. 222. The general community of property merges the spouse's property and their income to a common property, with the exception of that property which, by operation of the law, is a spouse's own property.

The common property belongs to both spouse undividedly.

No spouse may dispose of his or her share in the common property.

Art. 227. The spouse administer the common property in the interest of the conjugal union.

Each spouse can, within the limits of the ordinary administration, make the community liable and dispose of the common property.

Art. 228. Except for the ordinary administration the spouse can only jointly or one spouse only with the consent of the other spouse make the conjugal union liable and dispose of the common property.

Third parties may presume that this consent was given, unless they know or ought to know or ought to know that it was not given.

Art. 370. A committee shall be appointed for every person of full age, who by reason of his prodigality, drunkenness, immorality or the mismanagement of his affairs, exposes himself or his family to the risk of being reduced to poverty or want, or needs permanent care and supervision, or is a danger to the community.

Art. 371. A committee shall be appointed for every person of full age who has been sentenced to imprisonment for one year or upwards.

The person whose duty it is to execute the sentence is required immediately to inform the competent guardianship authority that the sentenced person has entered upon his term of imprisonment.

Art. 372. A committee can be appointed for every person of full age at his own request, where he can show that he is prevented from managing his affairs property through old age or physical infirmity or inexperience.

